



GOVERNMENT  
OF MALTA

# Malta Financial Services Oversight newsletter

SEPTEMBER 2020



# OUR STEADFAST COMMITMENT TO REFORM

foreword by the **Prime Minister Dr Robert Abela**

I would like to begin my foreword to the latest Malta Financial Services newsletter by saying how proud I was to accept the recommendation for our new Attorney General earlier this month. Proud because Victoria Buttigieg as becomes the first woman to hold the role, but also because of the other important 'firsts' that her appointment represents: the first time a new AG was appointed following the formal separation of the office's responsibilities; the first time the appointment was made on the recommendation of an independent selection committee.

## These changes matter because they are emblematic of the important structural reforms underway in Malta.

As with the Office of Attorney General, we have also overhauled the way we select our President, Chief Justice, and Police Commissioner, embracing a public selection process to boost transparency and meritocracy, and raising the bar for parliamentary approval in order to boost the need for cross-party support.

These reforms have been undertaken in less than ideal circumstances, given the global pandemic. I would like to thank all those who have worked so hard to keep our institutions running during this difficult period.

These changes will help to continue to strengthen our institutions and therefore our democracy. They help us to meet our international obligations and demonstrate to our international partners that we are serious about reforms. They also ensure we can be more effective in the fight against crime, including financial crime. Malta has a rich financial services economy. To nurture it we must protect it- and that means effective regulation is a *sine qua non*.

I was pleased to read that our new Police Commissioner plans to prioritise the fight against money laundering, and law enforcement entities are busy bolstering their AML and cybercrime capabilities through recruitment and training. We also need to ensure our regulators have all the powers and resources they need to do their job.

In the past, our financial regulators have come under fire for failing to spot and take the necessary action to stop financial crime. Throughout 2020 the Government has sustained our multi-year investment programme for these bodies. Both the FIAU and MFSA have continued to increase headcount and training, and investment in technology and IT. The FIAU's goAML platform and CBAR database for bank accounts are important new AML tools. New rules on Residual Balances and Shareholding Policies give the MFSA extra teeth. Now we need to see a return on this investment- and fast.

There are promising indications this is starting to happen.

Our institutions are working more closely together, collaborating on inspections and audits, exchanging information and pursuing a joined-up approach to fighting crime. Even in the teeth of COVID, the number and frequency of those audits and inspections has increased, as has the quantum of fines levied on companies and individuals that break the law or that fail to provide financial information as required. Suspicious Transaction Reports, a key measure of a country's AML vigour, have soared, as regulators educate financial institutions, gaming companies and service providers of their legal responsibilities. Companies that fail to abide by our laws have been stripped of their license to operate. The Malta Business Registry, which plays a key role in ensuring that companies are not used for money laundering, has struck off no less than 10,000 companies.

Plenty more remains to be done. But I am confident that with the right resources now in place, and with the grit and determination to see through our ambitious reform programme, we can ensure that Malta continues to thrive as a responsible, respectable jurisdiction in which to do business.

**Dr Robert Abela**  
Prime Minister

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# Ministry for Finance and Financial Services and the Ministry for the Economy, Investment and Small Business **react to the Global Forum Report**

**The Global Forum recently published Malta's second round peer review Report on the Exchange of Information on Request ('Report'). This OECD Report reviews Malta's relevant laws and practices during the 36-month period ending March 2019 considering international standards that were updated since 2015.**

Malta was found to be fully compliant with the international standards on six out of ten of the elements reviewed. Malta was partially compliant in relation to four other elements. Malta remains committed to maintaining international standards on tax transparency. Malta therefore takes note of the recommendations made in the OECD Report and expresses its commitment to address them and implement them.

Nevertheless, Malta believes that not enough recognition has been given to the work carried out by the Maltese authorities, especially since the end of the review period which ran from March 2019 to date. During this period substantial progress was made in all areas of supervision and regulatory processes, and these improvements specifically addressed the highlighted issues.

A case in point is the defunct procedures for 10,207 companies initiated for companies not compliant with their filing. Of these companies, 9,943 were struck off the Business Register.

The same can be said about the increased supervisory and enforcement measures undertaken during this last year by the Malta Financial Services Authority together with the Financial Intelligence Agency Unit in the area of banking supervision.

Furthermore, it is pertinent to note that Malta experienced a substantial and sudden increase in requests for information during the review period and consequently needed time to find the necessary resources to deal with such an increased workload.

It is equally important to note that foreign tax authorities still considered Malta as a good and valuable exchange of information partner in relation to the above-mentioned review period and this was clearly expressed in the feedback provided by Malta's peers for the purposes of this review. Regrettably, the Report does not adequately reflect this overall picture concerning Malta's exchange of information with foreign tax authorities.

# MFSA ISSUES NEW GUIDANCE ON SOURCE OF WEALTH SUBMISSIONS

In September, the MFSA issued new guidance on the reporting of Source of Funds (SOF) and Source of Wealth (SOW) by Authorised Persons. The two terms define where funds are received from, for example the bank account details, and how the individual came to have the funds in question e.g. via inheritance, house sale, or investment.

Source of Wealth and Source of Funds are important submissions in the regulatory approval and ongoing review of Authorised Persons, Beneficial Owners, Politically Exposed Persons and shareholders. They allow Authorities to investigate the origin of wealth or funds which is especially important in establishing the legitimacy of a source and therefore to help assess the risk of money laundering.

The new guidance aims to provide clarity on the information required and the frequency with which submissions are made. SOW submissions should be made periodically, and may be requested by the MFSA, and when there is a significant changes in circumstance such as sudden and significant liabilities materialising, the inability to raise planned capital, inclusion in a list of unreliable debtors or the failure to satisfy any debt payable by the individual. In these instances, it is important that the authority is informed as soon as possible, with a fulsome submission, verified by an accountant or auditor, of the origins and value of the sources of Wealth.

Source of Funds submissions detail the activity of the transfer and are required to facilitate the tracking of the movement of money. These transfers are ideally from an account in a regulated financial institution, held in the name of the individual concerned or an entity of which he is the 100% beneficial owner, and structured in a transparent manner.

These important submissions are the bedrock of KYC procedure and enable the MFSA to conduct thorough AML risk assessments.

# **MFSA** WEBINAR HIGHLIGHTS **AML RISKS FOR SERVICE PROVIDERS**

**As part of the MFSA's commitment to preventing and identifying AML/CFT risks faced by licensed entities such as Trustees and Company Service Providers, the Authority organised a webinar to raise awareness of risky business models and highlight red flags in the areas where service providers operate.**

The webinar brought together the perspectives of all the different local entities with a role to play in mitigating money laundering risks, including the National Coordinating Committee on Combating Money Laundering and Funding of Terrorism (NCC), the Financial Intelligence Analysis Unit (FIAU), and the Malta Business Registry (MBR).

The speakers outlined the relative approaches of their organisations, how they interact with Service Providers and their expectations of responsiveness.

The challenges posed by the ongoing pandemic have not hindered the MFSA's outreach and engagement with stakeholders in the financial services industry. The webinar saw a strong virtual attendance of nearly 200 participants from across sectors.

## PRE-BUDGET STATEMENT

# Ministry for Finance commits to investing in Justice

The Ministry for Finance and Financial Services has underlined its commitment to investing in Malta's Justice system. Writing in this month's pre-budget statement, Finance Minister Professor Edward Scicluna outlined the Government's commitment to a sustainable economy, both through fiscal measures, but also by ensuring the continued strengthening of Governance and the Rule of Law to guarantee national stability, trust in institutions and economic growth.

Many of the proposed changes will see investment in the technological infrastructure of organisations, and the digitalisation of files and processes to improve efficiency and transparency of information. These strategic priorities have been taken up by the newly-formed Cabinet Committee on Governance, which has been tasked with ensuring that Malta complies with the recommendations set out by the Venice Commission and GRECO. The committee will continue to implement a programme of Justice Reform in 2021 by further strengthening the Office of the Attorney General and the Office of the State Advocate. Under the guidance of the World Bank, there will be a business process reengineering of these two offices. This will ensure that the separation of these two offices reflects the highest levels of accountability, transparency and interoperability. In the coming year, improving efficiency in judicial procedures will remain a priority. This will be facilitated by upgrades to premises as well as digitisation of records and filings, all of which will lead to better distribution of Court workloads. These efforts should expedite pending cases and improve the quality of the services provided.

The Department of Justice is also being restructured to take on additional responsibilities with the incorporation of the Office of Conducts and Criminal Records. It will become responsible for the European Criminal Records Information System (ECRIS) as well as the European Criminal Records Information System-Third Country Nationals (ECRIS-TCN). The primary objective of this reform will be to allow the Police to focus their time and resources on criminal investigations and law enforcement.

All of these reforms will be governed by the first digital justice strategy, which is currently being drafted, and which will provide a unified strategic direction for digitisation across all justice stakeholders, a clear delineation of strategic goals and a roadmap for implementation.



## PRE-BUDGET STATEMENT

# Fresh Resources for Asset Recovery Bureau (Arb) and Tax Authorities in 2021

The pre-Budget Statement also outlines plans to boost investment at the Asset Recovery Bureau. The Bureau will continue to invest in new technologies for the exchange, management and retrieval of information and continue with the ambitious project of building the Bureau's HQ and facilities. Additionally, a programme of new methodologies and techniques will be introduced, together with the strengthening of the internal staff capacity and specialised training to the Bureau Officers. Separately, The Asset Recovery Bureau (ARB) will continue to enact recommendations from the National Risk Assessment for Malta and the 5th MoneyVal Evaluation for Malta through a proposed act which will provide the ARB with better tools to harmonise relevant Court Orders found in various legislations and will enhance the confiscation regime.

The Commissioner for Revenue will be granted increased powers of investigation and allowed to share information with other institutions involved in the fight against tax evasion, money laundering and other crimes. When it comes to combating tax evasion and aggressive tax avoidance schemes, current legislation will be amended to impose harsher sanctions, both in terms of fines and criminal prosecution, on persons found guilty of such offences.

The Customs Department will also receive additional investment to improve its systems and purchase new equipment. This will ensure that Customs has the adequate resources to continue to combat tax evasion, tax avoidance, fraudulent activities and organised crime, as well as protecting society from the illegal importation of controlled, prohibited and restricted goods, while collecting duties owed.

Throughout 2020, the National Coordinating Committee (NCC), has been building a comprehensive, evidence-based intelligence statistical database, as part of the ongoing national and sector risk assessments focusing on combatting anti-money laundering and financing of terrorism (AML/CFT) issues. The database is being collected from all competent authorities, to complement the work being carried out on the qualitative risk assessment of the relevant economic sectors.

This work will continue into 2021 and the 2017 National Risk Self-Assessment will be updated based on the MoneyVal assessment report. AML/CFT issues require constant vigilance to monitor for emerging money laundering and terrorism financing risks. The database will help competent authorities access the information they need to effectively address and mitigate risks as well as to detect and report suspicious money-laundering activity.

# FIAU SUSTAINS OUTREACH AND EDUCATION THROUGHOUT COVID

The Financial Intelligence Analysis Unit is one of Malta's financial watchdogs, entrusted with the oversight of some 2,300 subject persons (SPs).

An important role of the FIAU is to educate, guide and update SPs in their AML/CFT obligations, so they are more aware of the risks, the reporting obligations and what they need to do to operate in a way that both protects Malta and their own operations from being used as a vehicle to launder money and fund terrorism.

With this in mind, the Guidance and Outreach Section within the FIAU issues guidance and interpretative notes as deemed necessary, updates implementing procedures, and to counter act the restrictions created by Covid-19 for face-to-face training, organise various webinars.

In the past months the FIAU has issued several guidance documents that: clarify which activities may constitute funding of terrorism within a Maltese context; explain to lawyers and notaries which activities and services are subject to AML/CFT obligations; update Subject persons about new deadlines for submitting Suspicious Transaction Reports (STRs)

The FIAU has also organised six AML/CFT training webinars, leveraging insights from international expertise. Over 700 Subject Persons attended the webinars and each webinar focused on a particular sector including: banks and financial institutions; remote and land-based casinos; notaries and real estate agents; Trust and Company Service Providers and lawyers; accountants and auditors; Virtual financial Agents; and investment service and insurance providers

These publications and webinars reflect the FIAU's mission to offer ongoing and increased guidance and support to Subject Persons, so that they have sufficient knowledge and information available to them to understand their AML/CFT obligations.

# Malta Business Registry Establishes Compliance Unit To **Strengthen** Oversight And Inspections

The Malta Business Registry (“MBR”) has set up a Compliance Unit to boost compliance rates and increase oversight of registered companies. The Unit is capable of conducting physical onsite inspections in order to verify submitted information. It is then able to issue penalties if company submissions are inaccurate. As at the end of July 2020, the Compliance Unit had conducted 360 onsite company inspections.

The Compliance Unit has also been empowered to conduct individual screenings of those involved in establishing new companies in addition to registered companies. This new procedure enables the Unit to screen all individuals using a Know Your Customer (“KYC”) database, working in close collaboration with the Money Laundering Reporting Office (“MLRO”).

These checks include due diligence, in addition to beneficial ownership information. This approach is also used on any pending documents, such as annual returns and annual reports, as well as cases where individuals are being proposed to be appointed in registered companies.

The Compliance Unit also handles penalty claims in addition to discrepancies found in the Beneficial Ownership Register. The streamlining of these functions and close collaboration with the legal unit of the MBR works to increase process efficiency and effectiveness.

The MBR continues to review the incidence of any dormant companies on the registry as well as entities that fail to provide required information. To date, the registry has struck off almost 10,000 companies since its inception.



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Contributing Institutions

