

15/07/2024

**Financial Crime  
Compliance**

Tel: (+356) 21441155

To: The Management Body,

To: The Money Laundering Reporting Officer,

## **Money Laundering Reporting Officers within (Corporate) Company Service Providers**

You are receiving this letter as the Management Body and/or Money Laundering Reporting Officer of a Corporate Company Service Provider (“Authorised Entity”) supervised by the Malta Financial Services Authority (the “MFSA” or “Authority”).

### **1. BACKGROUND**

CSPs play a significant role within the Maltese financial system as their services allow the establishment, and to varying degrees, the operation, administration, and management of legal entities, including providing registered office services, as well as acting as, or arranging for directorship and company secretary services to third parties. They therefore play a key role as gatekeepers, as they are very well placed to prevent criminals from infiltrating the financial system and use the same to launder the proceeds of criminal activities.

Thus, CSPs equally bear more onerous obligations in safeguarding the integrity of the financial system and are exposed to higher ML/TF threats, as has been highlighted in the latest rendition of Malta’s National Risk Assessment<sup>1</sup> where CSPs have been risk rated as Medium-High. Considering this, the Authority’s responsibility in supervising MLROs operating within Corporate CSPs serves the fulfilment of two of its core mandates, safeguarding the integrity of financial markets and consumer protection.

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<sup>1</sup> [Malta’s National Risk Assessment \(2023\)](#)

The number of regulated CSPs has grown significantly over the past few years as a result of Malta's efforts to strengthen supervision of this sector through its revised regime<sup>2</sup>. Following this reform, the MFSA's authorisation and supervisory mandate extends to all those CSPs previously exempt from authorisation, resulting in a 70% increase in authorised entities over the last three years. Over 290 CSPs, both corporate and natural persons, are now under continuous scrutiny by the MFSA and must satisfy fitness and propriety requirements both at licensing stage and on an ongoing basis. This has required the MFSA to take into account the different realities of CSPs as the sector includes different business structures, ranging from individuals, natural persons, acting as CSPs on their own behalf as well as to fully developed corporate entities with mature governance structures.

The scrutiny exercised over CSPs also extends to their MLROs. Being also subject to AML/CFT regulation, CSPs have to select a sufficiently experienced and qualified officer to be appointed as MLRO following MFSA approval. The significant importance of CSPs' activities places their MLROs at the forefront of mitigating ML/TF risks, and detecting and reporting suspicions of ML/TF, in turn protecting both the Maltese and overall European financial system.

As a prudential supervisor, the MFSA considers it necessary to also take into account ML/TF, among other financial crimes, within its authorisation processes and supervisory interactions. This is in line with requirements arising from international standards, including the FATF, as well as with what the European Banking Authority (EBA) guides and recommends as the current European Supervisory Authority with an AML/CFT mandate. Albeit, the EBA's mandate is limited to credit and financial institutions, the MFSA consider AML/CFT related aspects all sectors which it supervises.

Pursuant to this, and the sector's varying operational and governance frameworks particular to this sector, during the last quarter of 2023, the MFSA's Financial Crime Compliance Function carried out a thematic exercise focusing on MLROs of corporate CSP's (legal persons). The objective of the review was to identify common trends and practices related to the implementation of MLROs as an AML/CFT

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<sup>2</sup> [Company Service Providers Rulebook](#)

function in and of itself, and how these compare with the MFSA's regulatory expectations.

## 2. METHODOLOGY

### 2.1. Applicability

CSPs are governed and regulated by the Company Services Providers Act (Chapter 529 of the Laws of Malta, as amended) as supplemented by the provisions stemming from the CSP Rulebook and the guidance issued by the MFSA from time to time. As such, CSPs are currently classified as presented below.

Class A	A CSP 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	A CSP 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	A CSP authorised to provide, by way of its business, all of the services of a company service provider specified in the definition of "company service provider" contained in article 2(1) of the Act (and therefore all of the services covered by Class A and B).

As per the Prevention of Money Laundering and Funding of Terrorism Regulations (PMLTFR) (Subsidiary Legislation 373.01 of the Laws of Malta), CSPs also fall within the definition of 'subject persons' as their services qualify as 'relevant activity'. As such they are bound by the obligations arising from the said regulations as further elaborated upon in the Financial Intelligence Analysis Unit's (FIAU) Implementing Procedures Part 1. Hence, CSPs authorised by the MFSA, are obliged to appoint an MLRO in accordance with Regulation 15 of the PMLTFR and Chapter 5 of the FIAU's

Implementing Procedures Part 1, as well as R2-6.2 of the CSP Rulebook. Thus, the MFSa has a vested interest in assessing the effectiveness of appointed MLROs and the overall practices implemented by entities in order to comply with these requirements.

## 2.2. Sample Selection

As at end of 2023 a total of 183 corporate CSPs were reported, and a sample of 50 was selected to participate in the thematic exercise, representing 27% of the overall population of authorised corporate CSPs. Given the specific types of entities and key function being considered, the population that was covered this exercise was chosen through a random sampling exercise. The thematic exercise was conducted through the circulation of a questionnaire which included both quantitative and qualitative questions. From the requested sample, 84% of respondents provided a timely and full reply. The forthcoming section provides an overview of the questionnaire. The following section provides an overview of each section covered by the questionnaire.

## 2.3. The Questionnaire

Considering the size of the sample and the nature of this Review, a questionnaire circulated via direct email was concluded as being the most appropriate tool. The questionnaire used for this thematic exercise comprised a total of 30 questions categorised into 6 sections as presented below.

### **Section 1 - Reporting Lines**

The MFSa places a lot of emphasis on the importance of an MLRO's reporting lines within an authorised entity's governance structures as these can enhance the MLRO's independence and autonomy, while also ensuring that the MLRO is held accountable. Hence, the questionnaire presented questions directly related to the MLRO's internal reporting lines, the mediums through which MLROs provide relevant information to senior management, and the type of information provided to the latter.

## **Section 2 - Training and Awareness**

The MFSa also places importance on the provision of training to staff and ensuring that CSP's staff are well-equipped to identify financial crime related threats and vulnerabilities, specifically those related to ML/TF. While neither legislation nor regulation prescribe that MLROs should directly provide company staff with ML/TF related training, the MFSa's perception and expectations (based on the prevailing practices within the overall financial services industry) is that MLROs are in the best position to facilitate this. Hence, the questionnaire queried how corporate CSPs ensure that their staff's knowledge on relevant financial crime risks and obligations is sufficient and kept updated, and how their respective MLROs contributed to internal training initiatives.

## **Section 3 - Internal Control Mechanisms**

The MFSa expects that CSPs maintain robust internal control mechanisms that are proportionate to the size, nature, and complexity of the entity, thereby upholding the risk-based approach and the proportionality principle. The MFSa appreciates that MLROs being involved in AML/CFT compliance management is neither an approach required by legislation nor by regulation. It is however still a prevailing approach that is implemented within the overall financial services industry. Hence, the questionnaire presented questions on to whether MLROs are vested with overall responsibility for maintaining effective AML/CFT controls within the CSP, and whether the MLRO function's effectiveness is assessed.

## **Section 4 - Business Model Considerations**

A holistic approach is necessary for any AML/CFT efforts to be effective, be it through national and international frameworks, but also within the operations of authorised entities themselves. In light of the above, CSPs are expected to incorporate AML/CFT considerations throughout their operations when formulating their business model. The questionnaire incorporated business model considerations by enquiring on the entities' three highest risks emanating from their respective business models and subsequent mitigating measures implemented to counteract such risks.

## Section 5 - Knowledge and Expertise

An effective MLRO is characterised, amongst others, by possessing essential knowledge and expertise, as delineated in the FIAU's Implementing Procedures – Part I. These qualities are important for ensuring the effectiveness of an MLRO function. This importance is also apparent in the CSP Rulebook which requires that a CSP ensures that the MLRO role is taken on by individuals who fully understand the extent of responsibilities attached to the role and also sets out expectations relating to qualifications and experience. Similarly, the MFSA's own Corporate Governance Code<sup>3</sup>, where it states that a firm's compliance functions must be supported by an MLRO who is adequately knowledgeable, skilled, and experienced. As such the questionnaire enquired on the specific number of years in AML/CFT related roles and the MLRO's highest level of education.

When it comes to training the MFSA's expectation is that the undertaking of regular and relevant training is essential for MLROs to maintain their proficiency, enabling them to provide effective challenge when necessary and fulfil their duties appropriately. This was also probed within the questionnaire, as MLROs were asked to list any AML/CFT related qualifications obtained over the last few months and to indicate the number of hours dedicated to training.

## Section 6 - Time Commitment

Business volumes and transactional activity vary among authorised entities, but it is crucial for MLROs to allocate enough time to fulfil their duties effectively. Considering the complexity of the financial services sector, MLROs should ensure they have sufficient time to assess individual transactions and transactional patterns, as well as reply to the FIAU's requests for information. The MFSA expects the MLRO function to have the necessary resources, including human and technological, to carry out their functions in an effective and efficient manner. Furthermore, in instances where the MLRO holds multiple roles, be it internally within the authorised entity or externally, it is imperative for the MLRO to ensure that sufficient time can be dedicated to effectively carry out all of the MLRO's duties. It is therefore essential that both upon appointment and thereafter, due consideration is

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<sup>3</sup> [Corporate Governance Code](#)

given to conflicts of interest which may arise from other commitments which the said individual may have. The questionnaire presented questions related to multiple involvements, be they within the same entity or with different entities.

### **3. KEY FINDINGS**

This section is solely dedicated towards providing a descriptive rendition of the trends and practices presented through the responses provided by the selected sample. The observations are categorised according to the themes described in section 3.3. It should be noted that percentages presented here are rounded to the nearest value. This section also provides best practices according to the relevant themes.

#### **3.1. Reporting Lines**

The majority of respondents (86%) noted that their MLROs report directly to their Board of Directors. Meanwhile, a small minority (11%) outlined that their MLROs report directly to a Partner/s. Irrespective of their reporting lines, the majority (64%) of respondents outlined that their MLROs report to senior management on a quarterly basis, while 19% report to their senior management monthly. Semi-annual and annual reporting were less prevalent practices (11% and 6%, respectively) throughout the sample.

With regards to the mediums through which MLRO's report to their senior management, almost half of respondents (43%) said that their preferred methods are to provide written reports and verbal updates. Around a quarter of respondents (29%) only use written reports to update their senior management on AML/CFT related matters. Meanwhile, 10% of respondents said that their MLROs use a combination of presentations, verbal updates, and written reports, while another 10% of respondents indicated that they solely give verbal updates.

Almost a quarter of respondents (24%) indicated that the information provided to senior management by the MLRO is intended to provide the former with updates in relation to the overall AML/CFT framework of the CSP including related regulatory updates. Specifically, and in order of prevalence, these updates include information

on onboarded customers and the risk rating attributed to new / prospective customers (20%), information on regulatory developments (17%), escalating issues and concerns not related to reporting suspicions (14%) and information on the particular CSP's systems and controls (12%).

### *Supervisory Expectations*

The MFSa continues to emphasise the importance of MLROs providing relevant and appropriate information to authorised entities' senior management to facilitate their understanding of risk exposures when considering, for example, entering new or maintaining existent business relationships and overall adherence to the entity's AML/CFT obligations in an effective manner. Reporting can also be an effective tool to ensure that senior management is informed of the challenges that the MLRO and the CSP are facing in the area of AML/CFT, allowing timely decisions to be taken to address any identified shortcomings including the need for additional investment in resources. Notably, MLRO updates to senior management may also include statistical trends noted from the entity's external reporting to the FIAU. Keeping in mind, that this information should not include case-specific details.

Additionally, the MFSa draws attention to the importance of maintaining the MLRO's independence and encourages authorised entities to construct governance structures that allow and facilitate direct reporting to the Board, or to a Board-appointed Committee, where the MLRO considers that circumstances so require.

### 3.2. Training and Awareness

With regards to training and awareness, the questionnaire initially queried on how the MLRO ensures that employees within the CSP remain aware of financial crime risks and keep abreast with their obligations. In this respect, the majority of respondents (73%) replied that they do so by providing periodic AML/CFT training to their staff. Other less common replies included the informal sharing of information during day-to-day operations (14%) and the updating of policies and procedures (9%).



Further to the above, the questionnaire also probed on the training initiatives MLROs are involved in. The prevalent response (30%) among MLROs was that they are involved in the provision of internal training. From the responses provided, the MLRO's involvement typically included (1) approving training material, (2) drafting training material/content, and (3) updating the CSP's training policy/plan. Less frequently, MLRO's are also involved in the induction training provided to newly onboarded staff (10%) and in the company's training needs analysis (3%). Only 1 CSP indicated that no training is provided to their staff or that the MLRO does not contribute towards their internal training initiatives.

Other practices where the MLROs were involved in their particular CSPs training initiatives included facilitating training provided by external parties to the CSP's staff and providing their input during the CSP's training needs analysis/assessment of its staff.

### *Supervisory Expectations*

The MFSA is of the view that informed staff may facilitate the MLRO's effectiveness within an authorised entity. Hence, the MFSA continues to encourage MLROs and other relevant AML/CFT compliance professionals to ensure that their CSP's staff is provided with tailored training in line with their responsibilities. Where applicable, the MFSA also encourages MLROs to provide / oversee the provision and quality of training to staff. In particular, the MFSA considers that the MLRO can contribute to training on transaction monitoring, internal reporting procedures and overall red flags, trends and typologies relevant to CSPs. Having the MLRO participate in such training exercises can effectively improve the MLRO function as employees and officers become better acquainted with what is to be reported to the MLRO or otherwise, reducing possible instances of false positives or of internal reports do not result in an external disclosure to the FIAU.

### 3.3. Internal Control Mechanisms

The majority of respondents (67%) indicated that AML/CFT controls are reviewed on an annual basis. Other common replies included that AML/CFT controls are reviewed on a bi-annually (10%) and a monthly (10%) basis. Furthermore, when queried on how such AML/CFT controls are maintained, the most common replies

included drafting, reviewing, and implementing policies and procedures (25%), reviewing customers and conducting onboarding checks (13%), transaction monitoring review (10%) and the provision of training (9%). When asked about outsourcing, the most commonly outsourced aspect related to the compliance function, not including the MLRO role. A large majority of respondents (95%) replied that the MLRO function is overseen for its effectiveness, with the exception of one respondent replying that no reviews are conducted and one respondent failing to provide a reply. From the 95% of respondents, the three most common replies were that the function was overseen by the Board of Directors (36%), a Compliance Officer (20%) and an external third party (16%).

### *Supervisory Expectations*

The MFSA continues to emphasise the importance of safeguarding the MLRO's independence. The MLRO is expected to have the authority to act independently and autonomously in carrying out their functions in an effective manner. To effectively do so, the MLRO is expected to have full and unlimited access to all records, data, documentation, and information within an entity. While the MLRO role is to be independent, the MLRO remains accountable to a management body, for the manner in which it carries out its functions. This is also in the interest of the authorised entity to ensure their MLROs' effectiveness. Hence, the MFSA encourages, where appropriate and proportionate, the application of quality assurance exercises on the functioning of MLROs.

The MLRO must also be mindful of any ensuing conflicts of interest. While having a dedicated MLRO function is ideal, the Authority allows for instances where the MLRO has additional roles within or external to the entity. In such circumstances the authorised entity is to assess whether such an arrangement may somehow negatively impact the independence and autonomy of the MLRO. In cases where conflicting roles are present, the MFSA encourages its authorised entities to consider applying proportionate and effective controls intended to mitigate the emanating risk and counterbalance this conflict.

### 3.4. Business Model Considerations

Responses indicate that the three most prevalent risks cited were customer risk (34%), product risk (32%) and jurisdictional risk (23%). With regards to mitigating measures all respondents provided that they perceive their controls as being sufficient to mitigate the identified risks.

#### *Supervisory Expectations*

The PMLTFR obliges authorised entities to adopt and implement a series of measures and controls to prevent the ML/TF misuse of the financial system. To ensure that such measures and controls are effective, the PMLTFR requires entities to adopt a risk-based approach when implementing such controls. This requires the identification and assessment of ML/TF risks the entity is exposed to and vary and adapt these measures in a way that ensures that resources are applied where most needed.

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### 3.5. Knowledge and Expertise

In relation to MLROs' knowledge and expertise, 43% indicated that the highest level of education they hold was a Master's degree and the majority (64%) possess over seven years of experience in AML/CFT related roles. Pertinent to highlight is that the lowest reported level of education attained was a Diploma with only a mere 5% of respondents having this level of education, while the highest was a Doctoral Degree with 12% of respondents having this level of education. In addition, when asked regarding their training efforts, the prevailing response (26%) was that MLROs allocate between 10 to 20 hours annually for training purposes.

### *Supervisory Expectations*

The MFSa appreciates that for the effective implementation of an MLRO function, the individual fulfilling said function must be sufficiently knowledgeable. Hence, the Authority encourages MLROs to develop and maintain their expertise, where appropriate, through their attendance of regular training. It is imperative that MLROs are sufficiently competent to be able to pose effective challenge to the authorised entity's decision making. Risk is in constant evolution and there is a need for the MLRO to ensure that they are conversant with new areas of ML/TF risk. Hence, the need for the CSP to ensure that its MLRO has access to quality training from time to time that goes well beyond introductory courses on the basics of AML/CFT.

#### 3.6. Time Commitment

When it comes to time commitment, the responses indicate that a significant portion of respondents (45%) indicated that they allocate between 1 to 10 hours per week to their role as MLRO within the authorised entity. Furthermore, with the exception of one respondent, MLROs who dedicate a maximum of 10 hours per week to their MLRO role answered that they undertake additional responsibilities, be it internally within the given CSP or externally with another third party.

MLROs who dedicate between 1 to 10 hours per week to their function are more likely to have additional roles, while MLROs who dedicate more hours to the MLRO function, are less likely to hold additional roles. Furthermore, those MLROs who dedicated approximately 31 to 40 hours per week, and responded that they had additional roles, indicated that their roles were within the same entity.

### *Supervisory Expectations*

The MFSa continues to emphasise that while resources and expertise are imperative for the successful application of the MLRO function, an individual fulfilling this said role would be hindered in appropriately fulfilling such role should not enough time be dedicated to the successful implementation of the same. Hence, the Authority accentuates that the time dedicated to the MLRO function should be proportionate to the needs of the particular CSP.

The MFSA also stresses the need for entities to assess the time that their MLROs are able to dedicate to their function vis-à-vis their business model and volume of customers and transactions. Any such assessment has to be reconsidered from time to time as business develops as what may have been adequate at the very beginning may no longer be appropriate to cater with increased activity. There should therefore be a frank and open dialogue with the MLRO to establish what is achievable considering also any additional functions that the said individual carries out, be they with the same CPS or an external third party.

## 4. CONCLUSION

The findings arising from this Review are being highlighted in this letter with the aim of sharing experiences, drawing attention to common practices and potential areas that yet require further improvement within the sector, and to further strengthen governance and compliance culture.

The MFSA encourages authorised entities and MLROs, to read this document jointly with other guidance documents, such as the MFSA's Guidance for MLROs in the Financial Services Sector<sup>4</sup> and guidance issued by the Financial Intelligence Analysis Unit. The findings outlined in this report may be considered in the Authority's future application of outcomes-based supervision in the area of Financial Crime Compliance. Authorised entities should take this report as an opportunity to consider any potential enhancements applicable to their AML/CFT framework.

The MFSA would like to thank all CSPs who were involved in this exercise for their cooperation. Should anything remain unclear or further guidance on achieving the Authority's expectations in practice be required, authorised entities are invited to contact the Authority, accordingly. The MFSA remains committed to continue providing guidance on best practices to drive enhancements to governance and compliance culture in the financial services sector.

Yours Sincerely,

**Malta Financial Services Authority**

*Christopher P Buttigieg*

**Christopher P. Buttigieg**  
Chief Officer Supervision

*Matthew Scicluna*

**Matthew Scicluna**  
Head, Financial Crime Compliance

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<sup>4</sup> [MFSA's Guidance for MLROs in the Financial Services Sector](#)