Verżjoni Elettronika

Suppliment tal-Gazzetta tal-Gvern ta' Malta Nru. 21,467, 11 ta' Lulju, 2025
Taqsima B

L.N. 133 of 2025

TRUSTS AND TRUSTEES ACT (CAP. 331)

Trusts and Trustees Act (Register of Beneficial Owners) (Amendment) Regulations, 2025

IN EXERCISE of the powers conferred by article 57(1) of the Trusts and Trustees Act, the Minister responsible for the regulation of financial services, acting on the advice of the Malta Financial Services Authority, has made the following regulations:

Citation and scope.

1. (1) The title of these regulations is the Trusts and Trustees Act (Register of Beneficial Owners) (Amendment) Regulations, 2025 and these regulations shall be read and construed as one with the Trusts and Trustees Act (Register of Beneficial Owners) Regulations, hereinafter referred to as the "principal regulations". S.L. 331.10.

(2) The scope of these regulations is to transpose, in part, Article 74 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, amending Directive (EU) 2019/1937, and amending and repealing Directive (EU) 2015/849, in so far as it relates to trusts and trustees, and these regulations shall be interpreted and applied accordingly.

Amends regulation 1 of the principal regulations.

2. In sub-regulation (2) of regulation 1 of the principal regulations the words "as amended by Directive (EU) 2018/843 of the European Parliament and of the Council of 30 May 2018," shall be deleted.

Amends regulation 2 of the principal regulations.

3. In sub-regulation (1) of regulation 2 of the principal regulations in the definition "officers" the words "administration thereof." shall be substituted by the words "administration thereof;" and immediately thereafter there shall be added the following new definitions:

" "private trustee" shall be interpreted and applied in accordance with article 43A of the Act;

"trustee" shall have the same meaning as assigned to it in the Act and, unless the context otherwise requires, shall include "private trustee"."

Verżjoni Elettronika

Amends regulation 3 of the principal regulations.

4. Regulation 3 of the principal regulations shall be amended as follows:

(a) sub-regulation (1) thereof shall be substituted by the following new sub-regulation:

"(1) A trustee who is authorised or registered in terms of article 43 or article 43B of the Act, and a private trustee in terms of article 43A of the Act shall, within fourteen (14) days of being appointed as a trustee of an express trust, submit to the Authority a declaration of beneficial ownership, in the form established by the Authority, in respect of every such trust. The declaration of beneficial ownership shall include the name of the trust and the information referred to in sub-regulation (2) on all the beneficial owners of the trust and such information shall be adequate, accurate and up to date, and shall be signed by the trustee. Where the trustee is a company, such declaration shall be signed by at least two (2) directors, and where the trustee is another body corporate it shall be signed by at least two (2) persons entrusted with the management and administration thereof.";

(b) sub-regulation (2) thereof shall be amended as follows:

(i) paragraph (a) thereof shall be substituted by the following new paragraph:

"(a) the full name and surname;";

(ii) paragraph (b) thereof shall be substituted by the following new paragraph:

"(b) the day, month and year of birth;";

(iii) paragraph (c) thereof shall be substituted by the following new paragraph:

"(c) the nationality or where a beneficial owner has more than one (1) nationality, the nationalities;".

Amends regulation 5 of the principal regulations.

5. In sub-regulation (2) of regulation 5 of the principal regulations, the words "in terms of regulation 3 or regulation 8" shall be substituted by the words "in terms of regulation 3, 3A, 8 or 8A".

Verżjoni Elettronika

6. Regulation 6 of the principal regulations shall be amended as follows: Amends regulation 6 of the principal regulations.

(a) in paragraph (a) of sub-regulation (1) thereof:

(i) in sub-paragraph (iii) thereof, the word "and" shall be deleted;

(ii) immediately after sub-paragraph (v) thereof, there shall be added the following new sub-paragraph:

"(vi) any other national competent authority within the meaning assigned to it in the Prevention of Money Laundering and Funding of Terrorism Regulations;"; S.L. 373.01.

(b) paragraph (d) of sub-regulation 1 thereof shall be deleted;

(c) in sub-regulation (2) thereof the words "under sub-regulation (1)(b), (c) and (d)" shall be substituted by the words "under sub-regulation (1)(b) and (c)";

(d) sub-regulation (5) thereof shall be substituted by the following new sub-regulation:

"(5) The access granted by the Authority to the information on the beneficial owners of a trust to natural or legal persons who have satisfactorily demonstrated a legitimate interest in terms of sub-regulation (1)(c) shall, in respect of each beneficial owner, consist of:

(i) the name and surname;

(ii) the month and year of birth;

(iii) the nationality;

(iv) the country of residence; and

(v) the nature and extent of the beneficial interest held.".

7. Immediately after regulation 8 of the principal regulations Adds a new regulation to the principal regulations.

Verżjoni Elettronika

there shall be added the following new regulation:

"Applicability to private trustees.

8A. Every individual acting as a private trustee in terms of the Act shall, with regard to every trust in respect of which the private trustee was so acting before 11th July 2025, submit to the Authority a declaration of beneficial ownership within six (6) months of the said date.".

Amends regulation 9 of the principal regulations.

8. Regulation 9 of the principal regulations shall be substituted by the following new regulation:

"Administrative penalties.

9. Where a trustee, in terms of regulation 3 or regulation 3A, contravenes or fails to comply with any of the provisions of these regulations, the Authority may impose an administrative penalty which may not exceed one hundred and fifty thousand euro (€150,000):

Provided that a trustee referred to in these regulations shall not be held liable if it is shown that the trustee had exercised all due diligence to comply with the provisions of these regulations and the default was not due to negligence or fault on the part of the trustee or any of its officers as may be applicable.".

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