

No. 1430

MINISTRY FOR FINANCE

Explanatory Notes¹**Trusts and Trustees Act (Register of Beneficial Owners) (Amendment) Regulations, 2026****1. Introduction**

The title of these regulations is the Trusts and Trustees Act (Register of Beneficial Owners) (Amendment) Regulations, 2026, which amends the Trusts and Trustees Act (Register of Beneficial Owners) Regulations (S.L.331.10) (hereinafter referred to as “the principal regulations”), issued in accordance with the Trusts and Trustees Act (Chapter 331 of the Laws of Malta).

2. Summary and Background

The Trusts and Trustees Act (Register of Beneficial Owners) (Amendment) Regulations, 2026 (hereinafter referred to as “the amending 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 (hereinafter referred to as “AMLD6”), insofar as they relate to trusts and trustees and the reporting of trust beneficial ownership information to the Malta Financial Services Authority (hereinafter referred to as “the Authority”) in the relevant register (which register is referred to as “TUBOR”).

3. Overview of the structure of the instrument

The amending regulations consist of thirteen (13) regulations.

4. Commentary

One of the primary objectives of the amending 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. 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, for which a definition is being introduced accordingly and which will replace the term ‘subject person’ as utilised in the Prevention of Money Laundering and Financing of Terrorism Regulations (S.L. 373.01), 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.

Furthermore, amendments are being introduced clarifying 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.

¹These Explanatory Notes are in accordance with and for the purposes of article 3(2)(c) and Schedule III of the Small Business Act (Chapter 512 of the Laws of Malta).

In this respect, the amending 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. 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. Such connection does not need to be proven for journalists and academics. Applications may be submitted online, unless otherwise provided, and fees may apply. The Authority must provide a reply within the specified timeframe, and the information that may be accessed is also specified in the amending regulations.

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 amending 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 amendments specify 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, and the Authority may also refuse or revoke access if the specified grounds are met. Prior to refusing access, the Authority shall consider requesting additional information. A right of appeal 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 amending regulations. Other amendments enhance the existing powers of the Authority to make enquiries or take any other action it may deem appropriate to address any concerns that information reported in the register is not accurate and up to date, and such verifications shall not be restricted, obstructed or precluded in any manner.

The amendments also clarify certain parameters regarding data subject requests submitted in accordance with the General Data Protection Regulation and the disclosure of personal data.

Regulation 9 of the principal regulations dealing with administrative penalties, is being amended to provide for additional instances where the Authority may impose administrative penalties, namely:

- a) Where the Authority is obliged to update the beneficial ownership information in the register itself when discrepancies are reported to it;
- 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.

Furthermore, for the avoidance of doubt, a new regulation (i.e. 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 the principal 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.

5. Concluding sections

The amending regulations shall come into force upon their publication in the Government Gazette.

The Articles being transposed in the Regulations have also been transposed in a separate legislative instrument, namely the Companies Act (Register of Beneficial Owners) Regulations insofar as the requirements are applicable to the register of legal persons administered by the Malta Business Registry. It is also worth noting that in order to ensure uniform application by EU Members States of specific requirements under AMLD6, the Commission was required to establish implementing acts which set out the format and minimum details required for the submission of beneficial ownership information to central registers, in terms of Article 10(6) of AMLD6. Similarly, Article 14 of AMLD6 requires the Commission to issue implementing acts and technical specifications relating to format of submission relating to requests for access to information held in the register. Whilst these implementing acts and technical specifications are still under discussion at EU level, the Authority will eventually have the obligation to implement such instruments accordingly.

It should also be noted that the Authority will be working on additional amendments to applicable legislation in the coming months to transpose other provisions of the AMLD6, as relevant to TUBOR, as well as to implement relevant provisions of the Regulation (EU) 2024/1624 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing (AML Regulation), which becomes applicable in July 2027.

Should additional information be required on the rights and obligations emanating from the Regulations, the MFSA may be contacted on +356 21441155 or by lodging a query on the MFSA Website.

N.B. These Explanatory Notes are not intended to be an exhaustive description of the instrument nor a substitute thereof or a legislative supplement to it. These Explanatory Notes do not purport to be an authoritative ruling on the interpretation of the legislation.

Annex

Transposition Notes for the transposition 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

Directive (EU) 2024/1640 Article Number	Transposing regulations
Article 11 (1)	Regulation 5, substituting regulation 6(1) of the principal regulations
Article 11 (2)	Regulation 5, adding regulation 6(1a) to the principal regulations
Article 11 (3)	Regulation 5, adding regulation 6(1b) to the principal regulations

Article 11 (4)	Regulation 5, adding regulation 6(8) to the principal regulations
Article 11 (5)	N/A
Article 12 (1)	Regulation 5, adding regulation 6(1c), substituting regulation 6(5) and (5a) of the principal regulations
Article 12 (2)	Regulation 5, adding regulation 6(1c) to the principal regulations
Article 12 (3)	N/A
Article 12 (4)	Regulation 10, adding regulation 7(2), (3) and (4) to the principal regulations
Article 13 (1)	Regulation 6, substituting regulation 6A(2) of the principal regulations
Article 13 (2)	Regulation 6, substituting regulation 6A(3) of the principal regulations
Article 13 (3)	Regulation 6, adding regulation 6A(6) to the principal regulations
Article 13 (4)	Regulation 6, adding regulation 6A(8) to the principal regulations
Article 13 (5)	Regulation 6, adding regulation 6A(7) to the principal regulations
Article 13 (6)	Regulation 6, adding regulation 6A(4) and (5) to the principal regulations
Article 13 (7)	Regulation 7, adding regulation 6AA (1) to the principal regulations
Article 13 (8)	Regulation 7, adding second proviso to regulation 6AA(1), adding sub-regulations (2) and (3) to the principal regulations
Article 13 (9)	Regulation 8, amending regulation 6B of the principal regulations
Article 13 (10)	Regulation 6, adding proviso to regulation 6A(7) of the principal regulations
Article 13 (11)	Regulation 6, adding regulation 6A(9) to the principal regulations
Article 13 (12)	Regulation 5, adding regulation 6(8) to the principal regulations
Article 14	N/A
Article 15	Regulation 5, substituting regulation 6(2) of the principal regulations; Regulation 8, substituting regulation 6B(2) of the principal regulations