

Guidance Note for Limited (Registered) Company Service Providers.

September 2025



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Introduction

The Prevention of Money Laundering and Funding of Terrorism Regulations ('PMLFTR') draw a distinction between company service providers that are authorised, registered or notified in terms of the Company Service Providers Act. These reflect recent changes to the Company Service Providers Act and the relevant Rulebook issued by the Malta Financial Services Authority (MFSA) which have resulted in the creation of three distinct categories of company service providers - restricted company service providers, limited company service providers (i.e. company service providers that are subject to registration with the MFSA), and authorised company service providers.

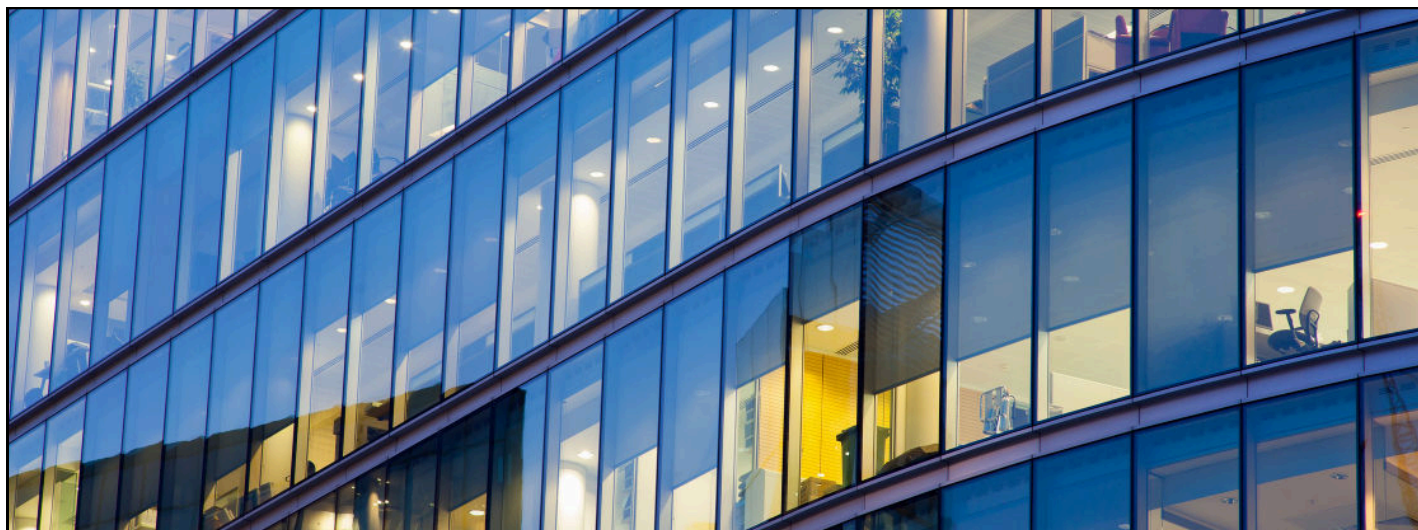
The distinction being drawn by the Company Service Providers Act is based on:

- (a) Whether one is providing company services by way of business.
- (b) The nature of the services one is providing.
- (c) The number of positions held.
- (d) Whether the company service provider is a natural person or otherwise.

The FIAU understands that the company service providers mainly impacted by these recent changes to the Company Service Providers Act are individuals:

- (a) Who are acting in their personal capacity, (and not as employees of a corporate entity arranging for their appointment as directors/company secretaries).
- (b) Who accept a limited number of engagements to act as directors and/or company secretaries.
- (c) Who can therefore opt to be registered as limited company service providers.

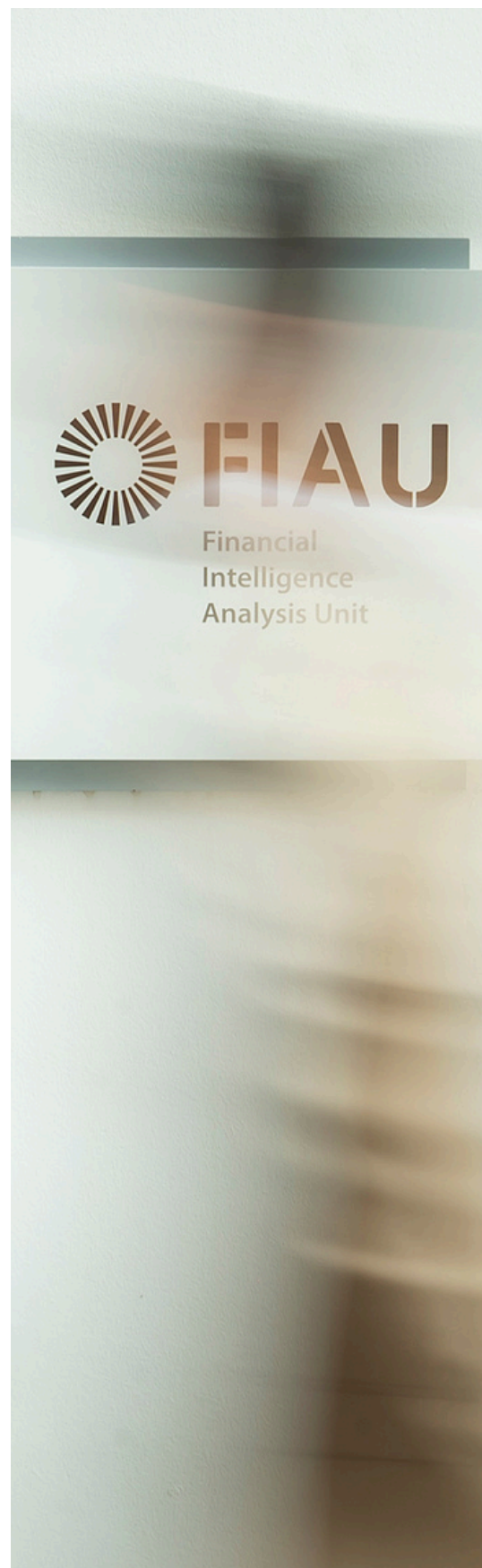
In line with the risk-based approach, the PMLFTR also allow for anti-money laundering and countering the financing of terrorism (AML/CFT) obligations to be applied, taking into consideration the nature and size of a subject person's activities. The reduced spectrum of activities carried out, the capped number of engagements that service providers can accept, and the limitation on resources available to them are factors that require a more proportionate application of AML/CFT obligations.



Due to the above, the FIAU has reviewed how it expects company service providers impacted by these changes to comply with their AML/CFT obligations, and it has identified areas where less onerous expectations can be imposed on this category of subject persons without impacting the effectiveness of the overall AML/CFT framework. This Guidance Note does not force any impacted subject person to necessarily adhere to it instead of the applicable provisions in the Implementing Procedures. Still, it provides for the possibility of applying an approach to AML/CFT obligations that the Financial Intelligence Analysis Unit (FIAU) considers more proportionate to the limited company service providers.

The FIAU wishes to highlight that:

1. In line with the definition of 'trust and company service provider' under Regulation 2(1) of the PMLFTR, company service providers that are subject to notification, i.e. restricted company service providers, are not deemed to be carrying out relevant activity and are therefore not subject to the obligations arising from the changes. This does not alter the position in situations where a notification is filed with the MFSA in terms of Regulation 3(2) of the Company Services Providers (Exemption) Regulations, i.e. where a trustee opts to provide company services, triggering an obligation to notify the MFSA of its intentions. Any company services this trustee provides will still be subject to the application of AML/CFT obligations.
2. This Guidance Note is only applicable to company service providers subject to registration, i.e. limited company service providers. Any other CSP subject to authorisation in terms of the Company Service Providers Act is bound to continue applying and implementing its AML/CFT obligations arising from the PMLFTR in line with the Implementing Procedures – Part I, the applicable Implementing Procedures – Part II, and any other guidance applicable issued by the Financial Intelligence Analysis Unit (FIAU).



Risk Understanding

The current AML/CFT framework is based on the 'risk-based approach', i.e. focusing one's available resources on those areas that are exposed to the risks of money laundering and terrorist financing (ML/TF) presented by a given situation. This means that a subject person must be well aware of the ML/TF risks and the levels to which their business is exposed.

It is to this end that Regulation 5(1) sets out that subject persons must *'take appropriate steps, proportionate to the nature and size of its business, to identify and assess the risks of money laundering and funding of terrorism that arise out of its activities or business, taking into account risk factors including those relating to customers, countries or geographical areas, products, services, transactions and delivery channels and shall furthermore take into consideration any national or supranational risk assessments relating to risks of money laundering and the funding of terrorism'*. This results in an obligation for each subject person to have a documented Business Risk Assessment in line with the requirements of Regulation 5(3) of the PMLFTR and those set out in Chapter 3 of the Implementing Procedures – Part I.

It is not uncommon for subject persons to service multiple customers, which might be of a different nature. Subject persons may also offer different services and/or products to their customers. These two factors, or a combination of them, result in situations where it is not possible for a subject person to correctly assess and determine the ML/TF risks and the levels to which it is exposed unless it carries out a proper assessment process that reflects the principles set out in Chapter 3 of the Implementing Procedures – Part I.

On the other hand, company service providers (CSPs) subject to registration can only have a limited number of engagements, capped at ten (10), which allows for a CSP to have a better risk understanding of the ML/TF risks it is exposed to without the need to actually carry out any form of quantitative or qualitative assessment, both in so far as the nature of the activities carried out by the legal persons serviced and the more general ML/TF risks to which CSPs are exposed to. In this context, the FIAU believes that the grounds exist for it to exercise the discretion allowed to it under Regulation 5(2) of the PMLFTR.

An additional requirement in risk understanding is the obligation to have risk management procedures in place that allow the subject person to assess the ML/TF risks it is exposed to through each engagement in a consistent manner. Hence, a methodology that allows the subject person to effectively determine the level of risk. Within larger entities, the implementation of a risk assessment methodology permits the uniform consideration and consistent weighing of individual risk factors. This ensures that all similar situations are risk assessed similarly, independently of who carries out the risk assessment.

Within the context of smaller entities like a CSP subject to registration, the possibility of this happening is less likely to materialise, as the CSP would be the one onboarding the customer, and can carefully consider the risk factors involved to come up with a general risk understanding of the level of ML/TF risk posed by the customer.

In view of the above, CSPs subject to registration will no longer be required to have a documented Business Risk Assessment, a documented methodology to risk-assess individual engagements and a documented customer risk assessment.



(a) A CSP subject to registration is still required to have an understanding of:

- The ML/TF risks that the business and its activities are exposed to.
- The ML/TF risks each engagement presents.
- How the above ML/TF risks are mitigated by the AML/CFT measures, policies, procedures and controls adopted in general and on an individual level by the given CSP.

The CSP should be aware of these aspects at all times and be able to describe them during supervisory and/or enforcement engagements, including what it considers to be the general level of its inherent risks, the overall effectiveness level of its control and its overall residual risk.



(b) A CSP subject to registration is still required to be conversant with the results of the National Risk Assessment and the Supranational Risk Assessment that are relevant to its activities.



(c) A CSP subject to registration is still required to document the information collected to construct the risk profile (e.g. nature of activities, main jurisdictions traded with, main trading partners etc.) and, in line with Section 9.5.2 of the Implementing Procedures – Part I, to have a list of its individual engagements with the respective level of ML/TF risk presented by the given engagement.

Policies and Procedures

In line with Regulation 5(5)(5)(a) of the PMLFTR stipulates that subject persons are to have in place and implement measures, policies, controls and procedures to mitigate the risks identified through the Business Risk Assessment. The Implementing Procedures – Part I state further that any such measures, policies, controls and procedures must be documented. This requirement applies to all subject persons, regardless of their size or nature. Details and complexity may vary from one subject person to another; all subject persons are to have an AML/CFT procedures manual.

The necessity of having a documented process is to ensure consistency in the application of the AML/CFT mitigating measures adopted by the subject person. Having clear directions as to what is to be done in at least the most common scenarios faced by the subject person allows different officers to have a point of reference, which should lead to comparable situations being treated in as similar a fashion as possible. However, the FIAU understands that CSPs subject to registration would have much smaller and simpler set-ups. In these cases, having documented measures, policies, controls, and procedures will not contribute to the overall effectiveness. An individual who runs their own business is expected to know which measures need to be applied to mitigate ML/TF risks, and under what circumstances, without the need for a documented manual.

In view of the above, CSPs subject to registration are no longer required to have documented measures, policies, controls and procedures.

To eliminate any misunderstandings, it is clarified that, depending on the nature of the supervisory or enforcement engagement, a CSP subject to registration will still be required to describe the AML/CFT mitigating measures it adopts, the rationale behind them and under what circumstances they would usually be applied. In addition, the above does not mean that the CSP may not take the initiative to have a document to assist with remembering what needs to be done in specific circumstances.



Registering on CASPAR and the Risk Evaluation Questionnaire

CSPs subject to registration will not need to register on CASPAR. This is not to say that they will not be included on CASPAR as the FIAU needs to maintain a list of subject persons that is as holistic and updated as possible at all times. A procedure will ensure that the MFSA communicates to the FIAU a list of the CSPs that have opted for the registration regime with the necessary details, and the FIAU will add them to CASPAR.

Registered CSPs must submit an annual return to the MFSA. This is intended to capture data and information of relevance to both the FIAU and the MFSA for risk understanding and risk assessment purposes. The two authorities continue to extensively consult about the contents of the return to ensure that it captures all the necessary data, allowing them to risk-assess the individual operators and have a holistic understanding of this particular category of CSPs.

The MFSA will share the data and information with the FIAU to enable it to perform its functions effectively, including carrying out the necessary risk assessment process for supervisory purposes. As a result, the requirement to complete and submit the Risk Evaluation Questionnaire will no longer apply to these specific categories of CSPs.

To eliminate any doubts, it is hereby clarified that where any such CSP carries out additional activities which are considered relevant activities or relevant financial business, they will still trigger an obligation to register on CASPAR and submit on an annual basis the Risk Evaluation Questionnaire for any additional relevant activity or relevant financial business carried out by the CSP in question.



Registration on goAML and Reporting

For clarity's sake, any CSP subject to registration is still bound by the reporting obligations arising from Regulation 15 of the PMLFTR, as further explained and elaborated upon in Chapter 5 of the Implementing Procedures – Part I. **This entails that registered CSPs are still bound to register on goAML.** This will enable them to submit suspicious transaction/activity reports and/or reply to requests for information received from the FIAU in a timely and secure manner.

Additional Clarifications

In addition to the above, the Financial Intelligence Analysis Unit would like to further clarify that:

- (a) The above does not constitute a derogation or an exemption from any of the actual AML/CFT measures that subject persons are required to carry out in terms of the PMLFTR, as further elaborated upon in the Implementing Procedures. Thus, the measures provided for under Regulation 7 onwards remain binding in their totality over registered CSPs. The application of these measures and their outcomes must be documented, and a record kept on file as per Regulation 13 and Chapter 9 of the Implementing Procedures – Part I.
- (b) The contents of this Guidance Note are only applicable to any activities carried out that are subject to registration in terms of the Company Service Providers Act. All obligations under the PMLFTR continue to apply to any additional activities carried out by a registered CSP that qualify as relevant activity or relevant financial business, unless a comparable exemption exists for those activities. These obligations must be followed in line with the Implementing Procedures and any other guidance issued by the FIAU.



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