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TRAINING SESSION ON

BENEFICIAL OWNERSHIP – QUO VADIS?

UPDATES TO THE FRAMEWORK ON BO REPORTING AND ACCESS TO BO INFORMATION OF TRUSTS

REPORTING | BENEFICIAL OWNERSHIP | ACCESS TO INFORMATION

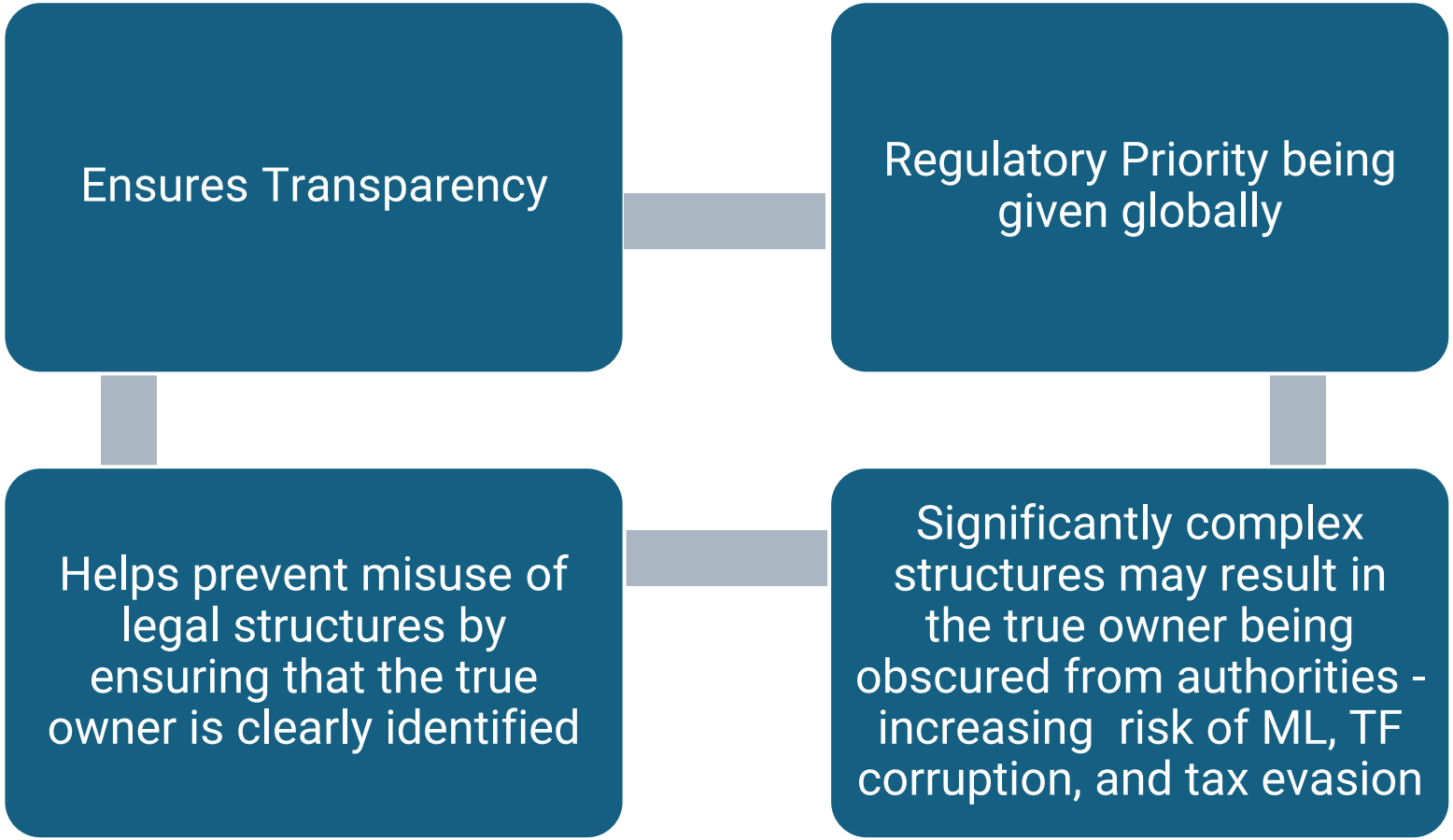
Petra Camilleri
Head, Trustees Supervision (MFSA)

4 November 2026



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Why Beneficial Ownership Matters



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Historical context of Regulatory Developments:

Scandals Driving Reform

Two key events/developments which instigated increased regulation vis-à-vis beneficial ownership disclosure and transparency

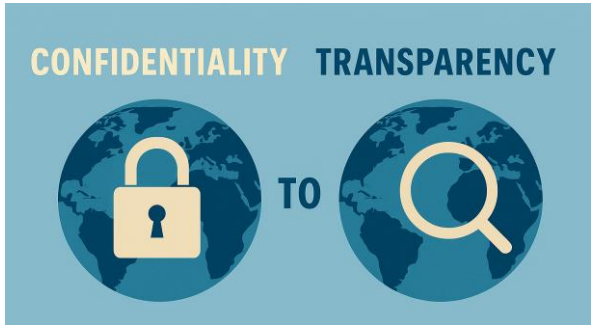


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Shift towards transparency

- Global financial system experiencing a rapid shift:



- Regulatory trend aimed at uncovering the “real human beings” (BOs) who own or control companies and legal arrangements
- Moving away from systems that allow for anonymity
- International efforts spearheaded by the **Financial Action Task Force (FATF)** for ***availability and accessibility of accurate and up-to-date BO information to competent authorities and other parties***

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What is the FATF ?

The Financial Action Task Force (FATF) leads global action to tackle money laundering, terrorist and proliferation financing.

- **Researches** how money is laundered and terrorism is funded, **promotes global standards** to mitigate the risks, **and assesses** whether countries are taking effective action.

What we do (fatf-gafi.org)

- A policy-making body - works to generate the necessary political will to bring about national legislative and regulatory reforms in these areas.

- A 40-member body that sets international standards to ensure national authorities can effectively go after illicit funds linked to drugs trafficking, the illicit arms trade, cyber fraud and other serious crimes.

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Setting the Standards through FATF Recommendations

- The FATF Recommendations ensure a co-ordinated global response to prevent organised crime, corruption and terrorism.
- Global benchmark for Anti-Money Laundering (AML) and Counter-Terrorist Financing (CFT)
- Adopted on 16 February 2012 and regularly updated since (last updated in October 2025).
- The FATF Standards comprise of the **Recommendations** themselves and their **Interpretive Notes,** together with the applicable definitions in the **Glossary**.
- FATF also often issues **Guidance Documents –** *of particular relevance:*
  - *Guidance on Transparency and Beneficial Ownership (October 2014)*
  - *Guidance on Beneficial Ownership and Transparency of Legal Arrangements – Recommendation 25 (March 2024)*

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		E – TRANSPARENCY AND BENEFICIAL OWNERSHIP OF LEGAL PERSONS AND ARRANGEMENTS
24	R.33	Transparency and beneficial ownership of legal persons *
25	R.34	Transparency and beneficial ownership of legal arrangements *
		F – POWERS AND RESPONSIBILITIES OF COMPETENT AUTHORITIES AND OTHER INSTITUTIONAL MEASURES
		Regulation and Supervision
26	R.23	Regulation and supervision of financial institutions *
27	R.29	Powers of supervisors
28	R.24	Regulation and supervision of DNFBPs *
		Operational and Law Enforcement
29	R.26	Financial intelligence units *
30	R.27	Responsibilities of law enforcement and investigative authorities *
31	R.28	Powers of law enforcement and investigative authorities
32	SRIX	Cash couriers *

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Recommendation 25:

Beneficial Ownership of legal arrangements

25. Transparency and beneficial ownership of legal arrangements *

Countries should assess the risks of the misuse of legal arrangements for money laundering or terrorist financing and take measures to prevent their misuse. In particular, countries should ensure that there is adequate, accurate and up-to-date information on express trusts and other similar legal arrangements including information on the settlor(s), trustee(s) and beneficiary(ies), that can be obtained or accessed efficiently and in a timely manner by competent authorities. Countries should consider facilitating access to beneficial ownership and control information by financial institutions and DNFBPs undertaking the requirements set out in Recommendations 10 and 22.

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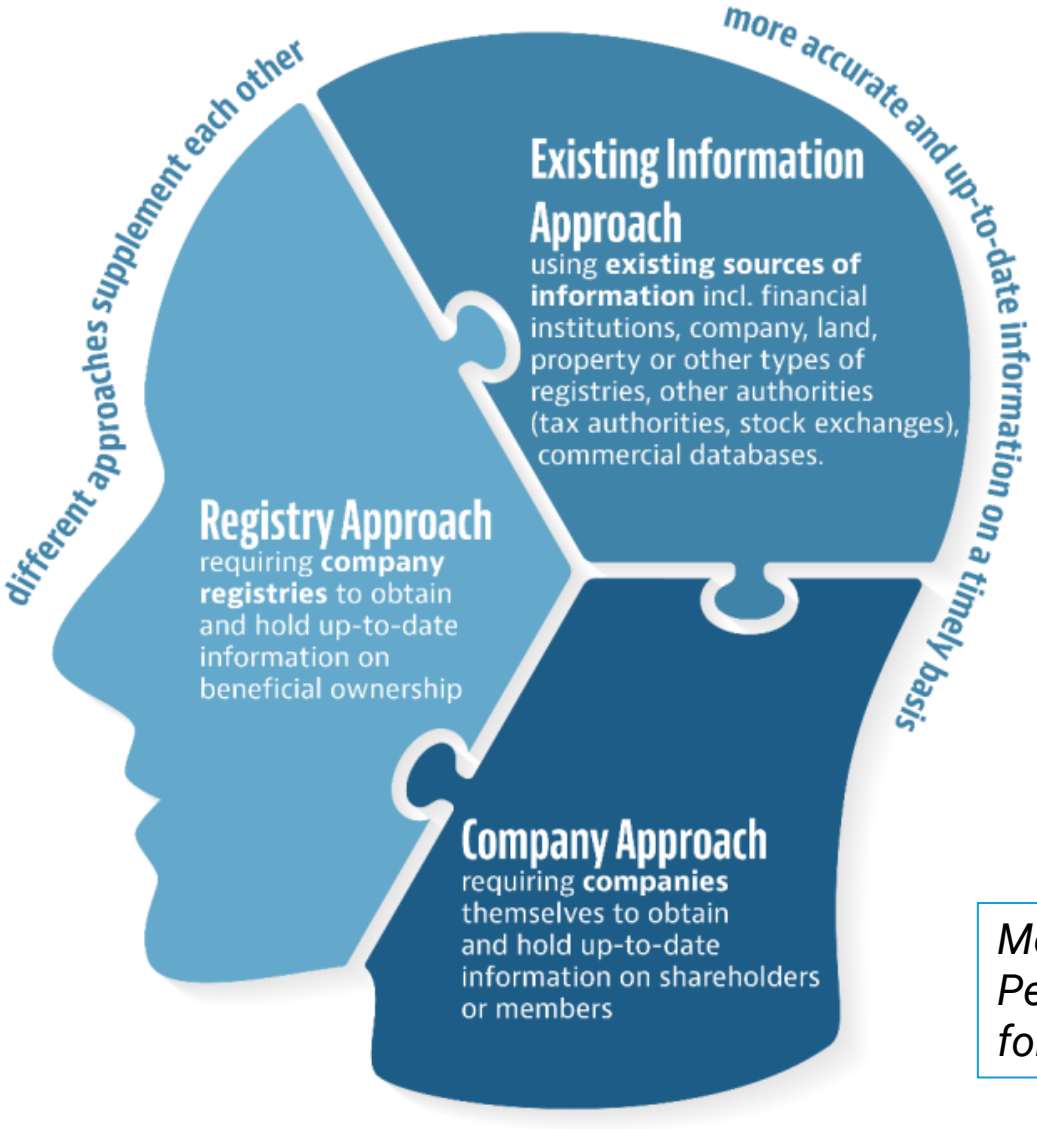
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Recommendation 25:
Beneficial Ownership of legal arrangements

- **FATF Definition of Legal Arrangements**: refers to **express trusts** and **other similar legal arrangements,** eg. fiducie, certain types of Treuhand, fideicomiso and Waqf.
- Obligation to **assess the risks** of misuse of legal arrangements for ML/TF and take measures to prevent their misuse
- **Requirement to identify all key parties of a trust**: (i) Settlor, (ii)Trustee(s), (iii)Protector (if any), (iv) Beneficiaries or Classes of Beneficiaries and objects of a power; (v), Ultimate controlling persons – *all deemed to be BOs of a trust*
- Obligation to ensure that there is **adequate, accurate and up-to-date information** on the **beneficial ownership and control of the trust/other legal arrangement** that can be obtained or accessed rapidly and efficiently by competent authorities.
- Availability of information from multiple sources (Multi-Pronged Approach)
- Trustees must declare status as trustee and share all basic and BO info of the trust with financial institutions (subject persons)
- Must be read in conjunction with FATF Interpretative Notes + FATF Guidance Documents

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The Multi-Pronged Approach to Availability of Beneficial Ownership Information



Mentioned under R24 for Legal Persons, but same model is applied for Legal Arrangements

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EU AML Framework Evolution vis-à-vis Beneficial Ownership (Trusts)



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EU AML Framework Evolution vis-à-vis Beneficial Ownership – *4th AML Directive (Directive 2015/849/EU)*

- **Article 31, 4th AMLD** – Member States were required to hold the beneficial ownership information of any **trust which generates tax consequences** in a central register – *Transposed in Trusts and Trustees Act (Register of Beneficial Owners) Regulations, 2017 (*in force 2018)

➢ *Access to competent authorities and subject persons only*



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EU AML Framework Evolution vis-à-vis Beneficial Ownership – *5th AML Directive (Directive 2018/843/EU)*

- **Amendment to Article 31 (of 4th AMLD)** – *Amendments to Trusts BO Regulations – LN 27 of 2020*
  - Member States were required to hold the beneficial ownership information of every trust under their administration, irrespective of tax consequences or otherwise
  - Reporting requirements extended to any trustee of a trust whose place of establishment or residence is outside the EU, where such trustee enters into a business relationship, or acquires real estate in Malta, in its capacity as trustee of a trust.

- *Access extended to any person who can demonstrate legitimate interest*



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Landmark EU Court of Justice Judgement:

Sovim Judgement (Joined Cases C-37/20 and C-601/20)

- Public access to BO information declared invalid by the EU Court of Justice (22 November 2022)
- General public access was ruled a "serious interference" with fundamental privacy and data protection rights
- Access to BO registers had to be restricted to competent authorities, subject persons, and persons who can prove a legitimate interest
- The Court also indicated however that certain categories of persons would have a ‘deemed’ legitimate interest – persons involved in investigative journalism and media, civil society organisations and persons likely to enter into a business transaction, third country competent authorities etc.



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EU AML Package 2024 vis-à-vis Beneficial Ownership:

- ***New AML Directive (Directive 2024/1640) +***
- ***New AML Regulation (Regulation 2024/1624)***

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EU AML Package 2024 vis-à-vis Beneficial Ownership

- No longer any distinction (separate provisions) for legal persons and legal arrangements
- Almost all provisions apply in an identical manner to legal persons and legal arrangements
- Coordination between MFSA and MBR, and support from FIAU has been crucial in terms of transposition and implementation

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AMLD 2024 - Article 74

Deadline transposition date: 10th July 2025

- Article 74 of the AML Directive (Amending Article 30 and 31 of 5th AMLD) –***the Trusts and Trustees Act (Register of Beneficial Ownership) Regulations (LN 133 of 2025)***
- Vis-à-vis trusts - scope of BO reporting extended to persons acting as private trustees in terms of Article 43A of the Trusts and Trustees Act.
- For companies – re-introduced access to BO information based on legitimate interest - *STOP-GAP to address Sovim Judgement removal of public access*
- For trusts - refined the then existing process for ensuring possibility of access to the beneficial ownership (BO) information based on a "legitimate interest" claim.

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AMLD 2024 - Article 11

- *Deadline transposition date: 10th July 2026 - Transposed in amendments to **Trusts BO Regulations (LN 252 of 2026 – Regs 6(1), 6(1a), 6(1b), 6(7))***

- General rules regarding access to beneficial ownership registers by competent authorities, self-regulatory bodies, and obliged entities are established by Article 11 of the AMLD6 Directive.

- The primary impact of this is the extension of competent authority access to a broader range of entities, including:
  - **Sanctions authorities**
  - **Tax Authorities**
  - **The Anti-Money Laundering Authority (AMLA)**
  - **The European Public Prosecutor's Office (EPPO)**
  - **The European Anti-Fraud Office (OLAF)**
  - **Europol**
  - **Eurojust**

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AMLD 2024 - Article 12

Deadline transposition date: 10th July 2026 - Transposed in amendments to ***Trusts BO Regulations (LN 252 of 2026- Reg 6(1c), (5) and (5a), Reg 7(2),(3) and (4))***

- Sets out **specific access rules** to beneficial ownership registers for persons with **legitimate interest in the prevention and combating of money laundering, its predicate offences and terrorist financing**

- Main impact is the clarification of what details must be made available to legitimate interest applicants and the expansion of who is to have a **"deemed legitimate interest"** whilst still retaining possibility of proving any other legitimate interest tied with investigating ML/TF

Specifically, the new rules outline that legitimate interest users should have access to the following information:

- **Name, month, and year of birth of all beneficial owners**
- **Country of residence and nationality of all beneficial owners**
- **Details on the nature and extent of the beneficial interest held**

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AMLD 2024 - Article 12 *(cont'd)*

Categories of persons who are deemed to have a legitimate interest under AMLD:

- 📰 **Journalists & media professionals** investigating AML/CFT matters
- 🤝 **Civil society, NGOs & academia** involved in AML/CFT efforts
- 🔍 **Persons likely to enter into a transaction with the legal entity/trust** who need to avoid ML/TF exposure
- 🌍 **Third-country obliged entities** performing customer due diligence (CDD)
- 🏛️ **Third-country AML/CFT authorities** for specific case-related investigations
- 📑 **Company registries & corporate oversight authorities** (registrations, mergers, conversions, divisions)
- 💶 **EU funds programme authorities** overseeing beneficiaries of EU fund programmes
- 🔄 **Recovery & Resilience Facility authorities** monitoring beneficiaries of such programmes
- 🛒 **Public procurement authorities** assessing tenderers and contract awardees
- 🖥️ **AML/CFT solution providers** where access is necessary to support obliged entities or competent authorities

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AMLD 2024 - Article 12 *(cont'd)*

Enhanced Access

Journalists/media, civil society/academia, and third-country AML/CFT authorities may also access:

- Historical beneficial ownership information
- Information on companies/trusts dissolved/ceased to exist (up to 5 years)
- Description of ownership and control structures

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AMLD 2024 - Article 13

Deadline transposition date: 10th July 2026 - Transposed in amendments to ***Trusts BO Regulations (LN 252 of 2026 – Reg 6A and 6B)***

- Sets out the **procedure for the verification and mutual recognition of a legitimate interest** to access beneficial ownership (BO) information

- Verification of legitimate interest must take into consideration:

  (a) function/occupation of the applicant;

  (b) connection with the specific legal entity/trust whose information is sought – *with the exception of journalists/media and civil societies/academia*

- Defined timelines for a decision – 12 days unless extended due to high number of requests
- Grounds for refusal set out – subject to right of appeal
- Introduction of the concept of **mutual recognition of a legitimate interest** that has been granted in another Member State – issuance of a **certificate which is valid for 3 years** (unless revoked before) which can be used in other Member States

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Other Amendments to Trusts BO Regulations through LN 252 of 2026

- Enhancement of existing powers of the MFSA to make enquiries or take any other action it may deem appropriate to address any concerns that information reported is not accurate & up to date (including updating the information itself)

- Power of the MFSA to update BO information itself following reported discrepancies – penalties may be imposed on trustee in such case

- Power of the MFSA to impose up to EUR 150,000 penalty where any person furnishes information/documentation, or makes an inaccurate/false/misleading statement/declaration for the purposes of requesting access to reported BO information – also a criminal offence

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AMLD 2024 – Other developments in the pipeline relating to Legitimate Interest Access Requests (Article 14 AMLD)

EU Commission mandated with issuing implementing acts and technical specifications and procedures for:

- Harmonised templates for access requests to BO registers and to access BO information - **WIP**
- Harmonised templates to be used by registers to confirm/refuse requests to access register/access BO information **- WIP**
- Procedures to facilitate cross-border mutual recognition of legitimate-interest applicants **- WIP**
- Procedures re: cross-border inter-register notifications of access revocations **- WIP**

These are still being discussed in EU Commission sub-committees which Malta participates in – *once published likely to be incorporated in Rules*

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AMLD 2024 - Article 15

*Deadline transposition date: 10th July 2026 - Transposed in amendments to **Trusts BO Regulations (LN 252 of 2026 – Reg 6(2)A and 6B(2))***

- Article 15 of the AMLD6 concerns **exceptions to the access rules** to beneficial ownership registers

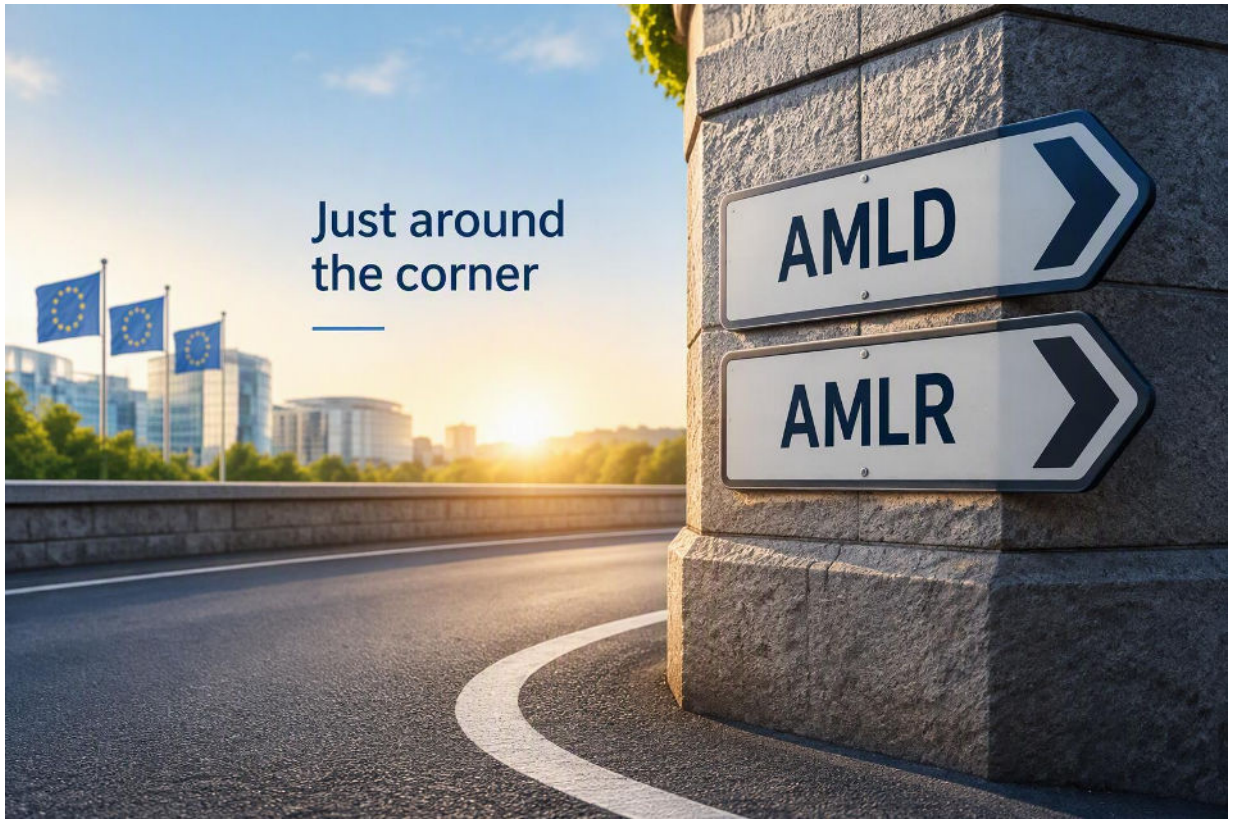
- The main impact of this article is that it makes minor adjustments and tweaks to the specific instances when access to all or part of the personal information on the beneficial owner can be refused.

- The exceptions remain focused on protecting individuals from risks such as **kidnapping, blackmail, violence, or intimidation**. The article also continues to protect **minors** and incapacitated persons.

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The Next Phase of AMLD Transposition & AMLR Implementation:
Impact on BO Registers



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AMLD 2024 - Article 10

Deadline transposition date: 10th July 2027

- Article 10 of the AMLD6 concerns **central beneficial ownership registers**.
- The main impact is the requirement to assess and implement any necessary changes to these registers – most of the requirements rehash the previous provisions under Article 30 and 31 of AMLD4 and AMLD5.
- New requirements include:
    - Obligations on Registers for **Targeted Financial Sanction screening** of reported trusts, entities, and beneficial owners – and including an indication in the register in case of positive hits
    - **Requirements for non-EU trusts/companies** to be reported in the Member State BO registers **extended** to situations where the trust/company (a) acquires certain high value goods (motor vehicles, watercraft, aircraft) from specific subject persons in that Member State ; (b) is awarded a public contract for goods/services in the Member State
    - Clarifies that Registers are to be empowered to have **specific powers to verify reported BO information** – and minimum expectations
    - More details about **discrepancy reporting** mechanisms
    - Data to be collected is **impacted by updated definitions to basic and beneficial ownership information under AML Regulation**

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AMLD 2024 - Article 10 (cont'd)

EU Commission mandated with issuing implementing acts to:

- **Establish the format for the submission** of BO information – which will cover the new basic and beneficial ownership information of legal persons and legal arrangements as updated in the AMLR
- Establish **checklist of minimum requirements for the information to be examined by the entity in charge of the central register**

Implementing Regulation published 23 October 2026

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AMLD 2024 - Article 17

Deadline transposition date: 10th July 2027

- Article 17 of the AMLD6 deals with the **interconnection of registers**.
- The main impact is that it establishes the requirement for Member States to ensure their central beneficial ownership (BO) registers are interconnected at the EU level – concept introduced since 4th AMLD.
- This will facilitate **secure and efficient cross-border access** to BO information for competent authorities and obliged entities, promoting greater cooperation and information sharing in the fight against financial crime.
- Close cooperation between MFSA and MBR on this workstream

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Anti-Money Laundering Regulation (AMLR)

Regulation (EU) 2024/1624 of the European Parliament and of the Council of 31 May 2024 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing

Directly Applicable



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AMLR - Article 2

Deadline Date: 10th July 2027

- Introduces a more comprehensive and updated definition of **basic information** and **beneficial ownership**, specifically for **legal arrangements**.

- More precise definition of a beneficial owner – "*any natural person who ultimately owns or controls a legal entity or an express trust or similar legal arrangement*."

- Broadens the definition of legal arrangement – "*an express trust or an arrangement which has a similar structure or function to an express trust, including fiducie and certain types of Treuhand and fideicomiso*."

- Specifies what "basic information" means in relation to both legal entities and legal arrangements.

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AMLR - Article 55

Deadline Date: 10th July 2027

- Provides **specific rules for ownership structures involving legal arrangements or similar legal entities (Eg. Foundations)**

- Where corporate entity is owned or controlled by other legal entities or arrangements (such as trusts):

  BOs = **natural persons** who are the ultimate beneficial owners of those underlying structures

- It ensures that the identification of beneficial owners consistently traces back to a natural person, regardless of the complexity of the ownership chain.

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AMLR - Article 58 – *Important as reflects changes to BO reporting obligations as well*

Deadline Date: 10th July 2027

- Establishes the criteria for identifying the **beneficial owners** of **express trusts and other similar legal arrangements**.
- An obliged entity must identify ***all natural persons*** who, by virtue of their function, are considered beneficial owners.
  - The beneficial owners of express trusts shall be all the following natural persons ***(or where they are legal persons, the natural person beneficial owner thereof)***:
    - the settlors
    - the trustees
    - the protectors, if any
    - the beneficiaries, unless other rules apply – *i.e classes of beneficiaries, objects of a power and default takers*
    - any other natural persons exercising ultimate control over the express trust by means of direct or indirect ownership or by other means, including through a chain of control or ownership.

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AMLR - Article 59

Deadline Date: 10th July 2027

- Establishes a **fallback rule** for beneficial ownership identification.
- For trusts and similar legal entities where the beneficiaries have not yet been determined, **one must identify the class of beneficiaries and their general characteristics.**
- A person within this class becomes a beneficial owner as soon as they are identified or designated.

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AMLR - Article 59 (cont'd)

Deadline Date: 10th July 2027

- In certain situations, only the class of beneficiaries needs to be identified.

- This only applies to:
  - Occupational Pension schemes.
  - Employee financial schemes, provided a Member State has assessed them as low-risk for money laundering or terrorist financing.
  - Charitable or non-profit trusts that have also been assessed by a Member State as being at low risk of misuse.

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AMLR - Article 60

Deadline Date: 10th July 2027

- Addresses the **identification of objects of a power and default takers in discretionary trusts.**
- In cases where the beneficiaries of a discretionary trust have not yet been selected, the regulation requires the identification of two groups: the **objects of a power** and the **default takers**.
- **Objects of a power** are natural/legal persons or class of natural or legal persons among whom trustees may select the beneficiaries in a discretionary trust.
    - ➢ *Considered BOs as soon as they are selected to receive a benefit*
- **Default takers** natural/legal persons or class of natural or legal persons who are the beneficiaries of a discretionary trust should the trustees fail to exercise their discretion.
    - ➢ *Become BOs if the trustees do not make a discretionary distribution.*

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Objects of a Power & Default Takers

- Crucial in the context of interpreting trust deeds, letters of wishes or any other document from the settlor
- More important than ever to be vigilant of wording being used in Letters of Wishes etc & to document assessments and decisions made about letters of wishes

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Objects of a Power & Default Takers

- FATF Guidance on Recommendation 25:

Object of a power

46. Not all trusts will have an 'object of a power'. However, where they exist, there are two (cumulative) elements to the definition of "object of a power":

a) First, the person must have been identified by the trustee as a member of a class of possible beneficiaries, for whom there is yet no identifiable trust property/fixed interest. Until the trustee exercises their discretionary powers, the objects of power are not more than likely to benefit.

b) Second, the trustee must have a clear and realistic belief that, under the terms of the trust, the possible beneficiary may, in fact, benefit from trust property in the future. This may be because the person is referred to in a letter of wishes (or similar) provided by the settlor. It may also be because the class has narrowed for a variety of reasons to a very small number of likely beneficiaries.

48. Other documents such as a letter of wishes, may clearly indicate a person as being a beneficiary or 'an object of a power'. Although letters of wishes are not binding on trustees, in practice some trust instruments may set out very generic classes of beneficiaries and then spell out in significant detail how the settlor 'wishes' for the trustee to administer and eventually distribute the trust fund to specific individuals. Although the trustee is legally entitled to refuse the settlor's wishes set out in the letter of wishes, in practice, this is generally given significant weight. Therefore, any persons specifically named therein should, in principle, be deemed "objects of a power".

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AMLR - Article 62

Deadline Date: 10th July 2027

- Expands the **BO information details** that must be collected by obliged entities as part of their customer due diligence processes. ***This information must also be reported to national registers.***
- This includes detailed information about:
    - **Personal details:** The beneficial owner's full name, date and place of birth, residential address, country of residence, nationality, and identity document number.
    - **Nature and extent of interest:** The nature and extent of their beneficial interest in the entity, including how they have control (ownership or other means) and the date the benefit was acquired.
    - **Entity information:** Information about the legal entity or arrangement that the person is the beneficial owner of
    - **Ownership structure:** If the structure involves multiple entities, a description of this structure, including the names and identification numbers of the entities and the relationships between them.
    - **Beneficiaries and others:** If beneficiaries or other parties are involved, a description of their class, names, and characteristics

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AMLR - Article 64 – Trustee Obligations

Deadline Date: 10th July 2027

Trustees required to collect and hold:

a) Basic information (as defined in AMLR) of the legal arrangement

b) Accurate and up-to-date beneficial ownership information

c) Basic & BO Information details of any connected legal entities or arrangements forming part of the trust

d) Information on agents authorised to act on behalf of the trust, and on any subject persons which the trustee enters into a business relationship with on behalf of the trust.

Trustees required to obtain and report in central register:

a) **Basic information** (as defined in AMLR) of the legal arrangement

+

b) Accurate and up-to-date **beneficial ownership information of the trust**

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AMLR - Article 64 – Trustee Obligations (cont'd)

Important to note the definition of basic information of a trust – all needs to be reported in the central register:

(i) the name or unique identifier of the trust;

(ii) the trust deed or equivalent;

(iii) the purposes of the legal arrangement, if any;

(iv) the assets held in the legal arrangement or managed through it;

(v) the place of residence of the trustees of the express trust, and, if different, the place from where the express trust or similar legal arrangement is administered

More granular detail to be provided in the Implementing Regulation on format of BO reporting:

- Values of assets
- Upload of trust deed
- Examples of purposes of trusts etc

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Conclusion

- Ongoing discussions and work started on next set of required legislative amendments

- Following publication of Implementing Act on BO Format:
    - MFSA started work on TUBOR infrastructure to come in line with new BO Format requirements
    - New BO Format will likely be implemented in the form of Rules
    - Trustees expected to start becoming familiar the Implementing Act to ensure preparedness
    - Tight timeframes & overlap with upcoming Moneyval evaluation – high expectations

- Commitment required by both the impacted authorities and industry players to ensure compliance and sound reputational standing

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Get in touch

T: +356 2144 1155
E: info@mfsa.mt
W: www.mfsa.mt

A: Malta Financial Services Authority,
Triq l-Imdina, Zone 1,
Central Business District, Birkirkara,
Malta, CBD 1010

