



GOVERNMENT  
OF MALTA



# Malta Financial Services Oversight newsletter

17 March 2020

A portrait of Prof. Edward Scicluna, Minister for Finance, in a dark suit and glasses, standing in an office with the European Union flag and the Maltese flag visible in the background.

Keynote address

**Prof Edward Scicluna**  
Minister for Finance

I am delighted and honoured to have the opportunity to address you in our inaugural newsletter, which aims to inform all our stakeholders about the progress we are making to strengthen our financial regulation and oversight, and meet our international obligations in the fight against financial crime.

Money laundering and the finance of terrorism are serious threats to Europe's- indeed the entire world's- financial system and we all have a vital role to play in fighting this twin scourge. That is why Malta is committed to implementing in full the recommendations from international institutions such as Moneyval, the Venice Commission and others. We have invested and will continue to invest significant resources to ensure our regulators and law enforcement agencies have the resources and training they need to do their jobs. Of course, our institutions also need the right powers to be effective and that is why the Government is passing legislation and enacting reforms to strengthen their powers and increase sanctions. And I am pleased to say our institutions are stepping up their collaboration with international partners. We are at the beginning of this journey, but our investment is already showing results, as you will learn from this newsletter.

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## FIAU reports **157% increase** in Suspicious Transaction Reports in 2019 from 2017

Malta's Financial Intelligence Analysis Unit ('FIAU'), tasked with monitoring compliance with AML/CFT legislation, reported it received 2,778 STRs or suspicious transaction reports in 2019, representing a 157% increase on 2017 and 65% increase over 2018.

This follows efforts by the FIAU to better educate and raise awareness of ML/TF risks particularly amongst designated non-financial businesses and professions (DNFBPs) such as TCSPs, legal professionals, accountants and auditors, real estate agents and the gaming sector, and on how to mitigate those risks, as well as their reporting obligations. STRs received by the FIAU are prioritised and analysed and can result in disseminations to the Malta Police, to foreign FIUs and to other domestic competent authorities.

At the same time, the FIAU reported an unprecedented increase in the number of requests for information received from other domestic authorities especially supervisory authorities. Most of these related to fitness and properness checks and in 2019 the FIAU handled

requests in relation to more than 3,000 individuals, up from approximately 2000 for the years 2017 and 2018.

The FIAU also proactively shares information with its international counterparts in order to aid the global fight against financial crime. The FIAU shared 1,549 so-called spontaneous reports in 2019, a sharp increase compared with 749 in 2018 and 277 in 2017. Up until the end of February 2020, the FIAU has already shared 664 spontaneous reports with its counterparts.

The FIAU also confirmed plans to boost headcount to c. 100 by June this year, and c.150 by 2022, up from 34 in 2017, as the regulator boosts resources in the fight against financial crime.

## Malta Business Registry confirms 1,654 companies struck off

The Malta Business Registry ('MBR') has initiated defunct procedures against circa 2,000 entities in 2020, with a total of 1,654 companies struck off for being non-compliant as at February 2020. The MBR is responsible for ensuring that stakeholders have adequate, accurate and easy access to registers of companies established under Maltese law. It enforces rules to ensure companies maintain correct records as well as requiring them to provide up to date and accurate information about their ultimate beneficial owners.

The MBR ensures that BO ('beneficial ownership') information is up to date through ongoing, random sampling checks.

The Registrar is in the process of striking between 8,000 and 10,000 companies that failed to submit their BO form and annual returns for the last five years. This procedure seeks to eliminate any abuse from directors and/or shareholders regarding the use of companies for an illegitimate purpose.

# Customs illegal cash seizures increase 560% on 2018 as AML/CFT cases jump

The Malta Customs department has had a record-breaking year, in 2019, with **€1.55 million in undeclared cash** being seized in 66 cases.

This is a 560% increase from the €203,335 seized in ten cases, last year. The strong progress has been sustained into 2020 with €204,018 confiscated in fifteen cases so far this year. This is as a result of close cooperation between the Customs and Malta Police's AML and CFT units. The increase also follows the amendment of legislation that states that any person entering or leaving Malta with €10,000 or more in cash must declare it to the comptroller.

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## FIAU triples pecuniary fines for AML/CFT breaches

The FIAU as the national AML/CFT supervisor, significantly increased pecuniary fines for AML/CFT breaches in 2019. The regulator imposed €3.9 million on subject persons in relation to breaches of their anti-money laundering and combatting financing of terrorism obligations, representing a 190% increase on the previous year and a 700-fold increase on 2017. During Q4 2019, the FIAU's Compliance Monitoring Committee ('CMC'), which is responsible for considering potential breaches of AML/CFT obligations and determining appropriate measures, was strengthened with the rollout of an 'enforcement categorisation tool' to help decide which administration measures must be applied in response to AML/CFT breaches. At the same time, a 'sanctions tool' was introduced to assist CMC measures in deciding what pecuniary fines to impose. The sanctions tool has already been used in five cases.

## MFSA recruits new Head of Banking from Bank of England

The MFSA has announced the appointment of David Eacott as Head of Banking Supervision, following a 22-year career at the Bank of England. With proven experience in implementing financial services oversight strategies and improving audit functions, David's appointment strengthens the MFSA's management and supervisory team and demonstrates a clear commitment to identifying and addressing risks.

David's appointment comes alongside the recruitment of two additional senior management hires from London. Anthony Eddington takes on the role of head of financial crime compliance. He was previously regional head of AFC advisory for UK markets at Deutsche Bank. Emily Benson is the new head of conduct. She takes over from Michelle Buontempo who has been promoted to chief enforcement officer. Benson was previously a consultant solicitor at Keystone Law and, prior to that, she worked as head of financial services regulation at law firm TLT. Emily has also worked in wholesale enforcement at the Financial Services Authority, the precursor organisation to the UK regulator the Financial Conduct Authority.

The MFSA has also shown strong progress in bolstering its organisational capacity, establishing a new due diligence function focused solely on the robust monitoring of individuals operating in financial services.

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## MGA imposes **€2.34 million** fine

The Malta Gaming Authority ('MGA') has imposed a €2.34 million fine on Blackrock Media Limited for 'operating gaming services through a Maltese legal entity without being in possession of the necessary authorisation.' The penalty follows a joint investigation carried out by the MGA together with Malta's executive Police force.

The announcement follows publication of the MGA's interim report covering the period January to June 2019. During this period, the Authority issued 11 Notices of Reprimand, suspended 11 licenses, and cancelled another seven. The MGA also issued a total of eight administrative fines. The MGA's Fit & Proper Committee is responsible for deciding whether individuals are suitable to be involved in a gaming business, whether as a shareholder, financier or in a management function, on the basis of their past conduct and record. During this timeframe, 13 refusals were issued by the Committee for individuals who were part of a new licence application, or as part of ongoing monitoring of existing licensees.

During the period under review, the Authority deepened its AML/CFT efforts through intelligence gathering and knowledge-sharing with relevant authorities. The MGA entered into a Memorandum of Understanding (MoU) with the Malta Police Force to further increase and improve cooperation and the exchange of information. The MGA also signed an MoU with the Swedish Gambling Authority to support the effective sharing of information on matters of mutual interest and policy areas.

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## Government unveils **new process to select Police Commissioner**

The Government has announced changes to the way that Malta's Police Commissioner, the Island's most senior officer, is selected. While previously chosen directly by the Prime Minister, under the new system the post will be opened up to all external applicants and not restricted to the police force itself.

Applicants will then be assessed by a public sector body made up of two members nominated by the opposition party, two by the Government, and a Chairperson also nominated by the Government. The Prime Minister will select the final candidate before ultimate approval through a vote in Parliament.

The change comes after recommendations from the Venice Commission, that the Commissioner of Police should be appointed after a public call, with the Prime Minister having the right of veto. The same Venice Commission report, presented in December 2018, also called for the establishment of an Office of Director of Public Prosecutions to assume the functions currently performed by the Attorney General and the Police.

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# Malta's AML/CFT regime updated to reflect EU's 5th AMLD and to address certain MONEYVAL and Venice Commission recommendations

The Legal and International Affairs Team of the FIAU has been heavily involved in drafting a series of amendments to both the Prevention of Money Laundering Act (PMLA) and the Prevention of Money Laundering and Funding of Terrorism Regulations (PMLFTR). The said amendments were published through Act I of 2020 and Legal Notice 26 of 2020 respectively.

While the bulk of the said amendments form part of the transposition process of Directive (EU) 2018/843 (the 5th AMLD or anti-Money Laundering Directive), the amendments to the PMLA also addressed issues that had been highlighted by the MONEYVAL assessors in Malta's Fifth Round Mutual Evaluation Report and in the Venice Commission report on Malta, as requiring some form of intervention.

Some examples of amendments to the PMLA addressing MONEYVAL's and the Venice Commission's recommendations, include:

**Setting clear timelines within which an appeal against an administrative sanction imposed by the FIAU is to be heard and decided, rendering supervision efforts more efficient and hence more effective**

**Changes in the way the publication of penalties takes place, making the publications regime more effective, whilst at the same time respecting the principle of proportionality**

**Introducing new authorities that sit on the FIAU Board of Governors – the Malta Gaming Authority and the Commissioner for Revenue. The Office of the Attorney General is no longer represented on the FIAU Board of Governors**

The FIAU has now initiated the second phase of this exercise addressing MONEYVAL's recommendations made in relation to the legal provisions found under the PMLFTR.

# MFSA increases regulatory oversight of Trusts and Trustees

The MFSA has introduced new regulatory obligations for trusts, bringing greater scrutiny and accountability. The amended legislation significantly increases the number of trusts that must register with the Trust Beneficial Ownership Register, from 300 to over 3,000. The change mandates that all trusts, irrespective of whether they generate tax consequences, must submit ultimate beneficial ownership information to the MFSA.

To ensure that the reporting and holding of information is secure, streamlined and efficient, the MFSA launched an online platform for the Trust Ultimate Beneficial Ownership register in October 2018.

The platform facilitates the electronic submission of the beneficial ownership information and provides online access to the relevant authorities and entitled subject person. As part of the strengthened supervisory and oversight function, the MFSA introduced a comprehensive training programme for all competent authorities and conducts regular onsite inspections to verify the accuracy of data reported to the register.

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## National Productivity Board launches inaugural report

Malta's National Productivity Board unveiled its inaugural productivity report last week with 33 recommendations on how to boost productivity and competitiveness.

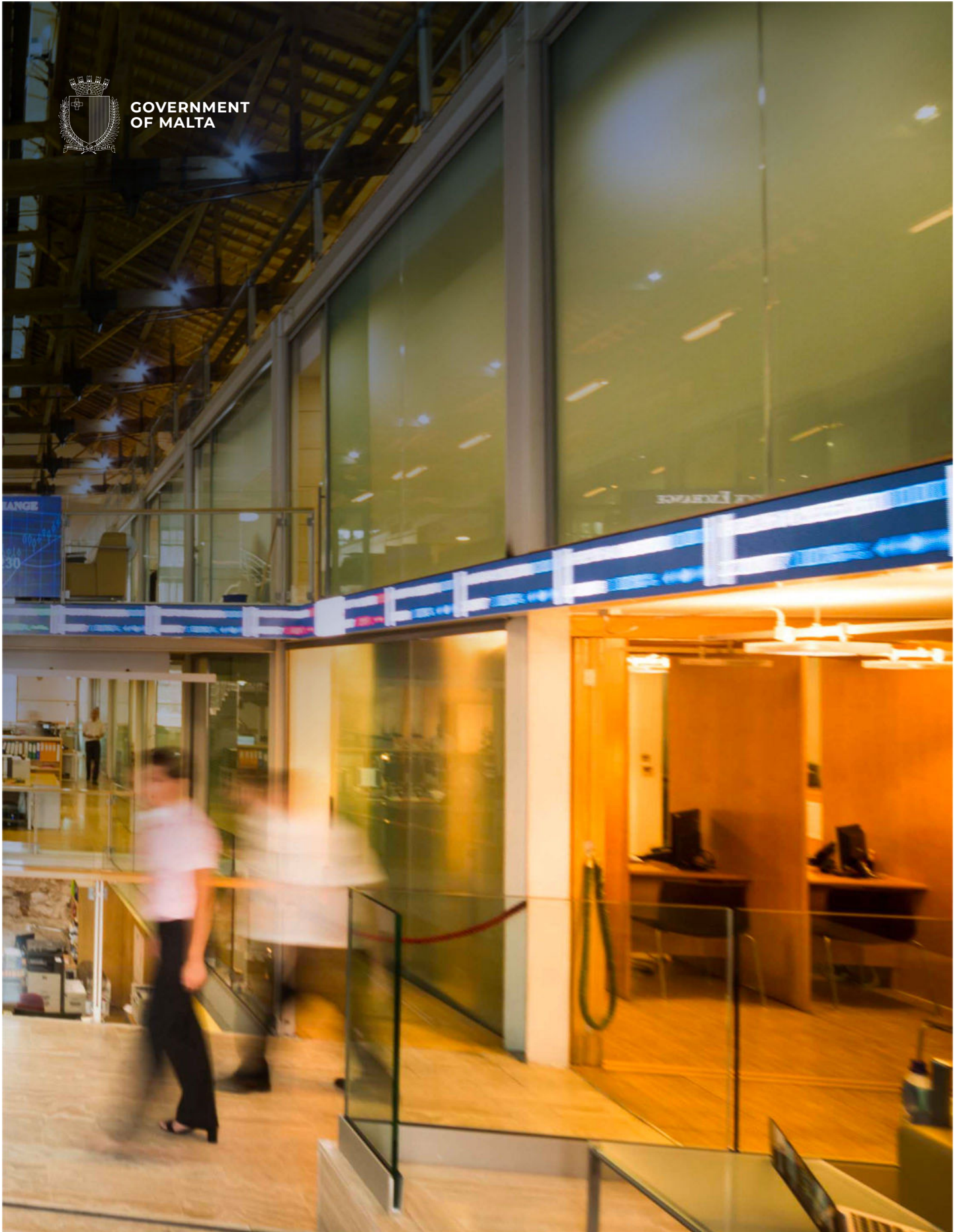
The recommendations include supporting and enhancing the business environment and supporting research, innovation and human capital development. The report also emphasises the need to consider sustainability in infrastructure investment management.

Malta's National Productivity Board was established in 2019 to drive and enable productivity gains and maintain Malta's competitive edge in a global and dynamic environment. These enablers include innovation, the capacity to attract investment, businesses and human capital, and to address cost and non-cost factors that can affect competitiveness.

As emphasised in the Council Recommendation, national productivity boards are expected to produce independent high-quality economic analysis of policy challenges, with boards that are objective, neutral and fully independent.

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