

Banks in Malta: Dealing with Trusts & Foundations

What compliance officers at Banks need to know about Trusts and Foundation

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Trustee/Administrator Obligations

- Extensive responsibility under our own laws
 - Fiduciary duties : care, prudence, diligence and the attention of a *bonus paterfamilias*
 - utmost good faith
- MFSA Authorised & Supervised (main aim is to protect the public interest)

Trustee/Administrator Obligations : Action before acceptance to act

- New trust/foundation : requirements as per TTA & PMLA, PMLFTR & IPs.
- Already set-up trust/foundation : ensure all is in order including financial information, no breaches of trust.

Trustee/Administrator Obligations : Whilst acting as trustee

- General duty of care, prudence, diligence.
- Monitor & supervise the performance assets including underlying entities (flow of income).



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Trustee Obligations : Record Keeping & Financial Information

- *“Trustees shall keep accurate accounts and records of their trusteeship and shall, upon a request by any beneficiary, disclose such accounts and records to such beneficiary...”*
- Trustees are obliged to keep all records relating to the trust including financial information ex: purchase & sale of assets, bank activity, statements of portfolio investments.
- TUBOR & RBO obligations

FATCA and CRS Obligations

- Trustee/Administrator company is classified as Reportable Financial Institution (RMFI)
- Trustees/Administrators have to verify the status (in terms of income/assets held in those entities where they act as trustees/administrators) and report each year to IRD the status of such 'entity Accounts' and assets held including the Net Asset Value of each entity.
- Banks are also notified of this classification and any changes thereto.

What can we do from our side as trustees/administrators?

Trustees/administrators can include an explanation of the following :

- scope & structure of the trust/foundation
- nature & purpose in line with typology set up = to take into consideration change in circumstance ex: that family might change in terms of its dynamics – this would be catered for depending on type of trust & trust deed
- Relationship between settlors, beneficiaries & protector

What can we do from our side as trustees/administrators?

Other information:

- If beneficiaries are being appointed through other documents (other than the trust instrument), we could provide documentation to this effect.
- Send periodical updates and advice of any change in circumstances (ex: change in investment strategy or sale of major asset)



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Thank You

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