

Annual Compliance Report Sole Practitioners - Guidance Notes

General

Legal or natural persons carrying out any relevant financial business or relevant activity, as defined in the Prevention of Money Laundering and Funding of Terrorism Regulations ('PMLFTR'), are required to complete and submit the Annual Compliance Report ('ACR') in accordance with the time-frames outlined in Section 6.11.2 of the FIAU Implementing Procedures.

By way of clarification, all persons subject to the Regulations at least 30 days before the relative due date are required to submit a report – irrespective of whether or not they have actually commenced operations. If operations have not commenced, an explanatory note could be included in the pertinent section of the report (Section G).

The ACR should be completed by the sole practitioner, who is also acting in her/ his capacity as the Money Laundering Reporting Officer ('MLRO'). The Declaration of Compliance (Section H) also needs to be completed by the same person.

The information detailed in the report should be as at date of submission, unless otherwise specifically indicated. In Sections D and F of the report the period between 1 January 2016 and 31 December 2016 applies.

A number of fields in the report are mandatory and must be completed before submitting it to the FIAU. The "Save" button at the end of the report will automatically check the document and list the fields that have inadvertently been omitted.

Mandatory fields could also be identified by looking out for the red outline (as opposed to black) in the place subject persons need to detail the required information. Should all fields carry a black outline (and white fill) simply click on the "Highlight Existing Fields" button on the top right of the document.

Though the ACR should be submitted electronically through the FIAU website, this could be extraordinarily accepted in paper format so long as this is cleared beforehand with the FIAU Compliance Section. In this case, the MLRO/ sole practitioner will be required to sign the submission.

Please ensure that you download and save a copy of the report template on your device (either your computer, tablet, smartphone or any other electronic device) before detailing the required information. Similarly, be sure to save the completed report on your device before uploading it through the FIAU website.

A. Subject Person

- A1. Name of subject person In the case of a natural person, fill in the first name and surname.
In the case of a legal person, fill in the registered name.
In all other cases (for example a firm or practice), fill in the trade or business name that is used by the entity.
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- A1. Type of activity Select the relevant financial business or relevant activity being carried out by the subject person.
If the subject person carries out more than one activity falling within the definition of relevant financial business or relevant activity select the other activities, otherwise choose the “Not Applicable” options as necessary.
Please note that any connected undertakings (see definition at the end of Section A) carrying out the same and/ or other activities falling within the definition of relevant financial business or relevant activity would necessarily need to complete a separate ACR. Such activities should therefore not be included here.
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- A2. Company Registration No./ Licence No./ Warrant No. Fill in the relevant number(s), as applicable.
Self-employed legal professionals should detail the type of warrant issued (for example, Lawyer, Notary Public or Legal Procurator).
In other cases where no number is available simply enter “Not Applicable”.
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- A2. Date of registration/ license/ warrant Fill in the relevant date in the format “dd/mm/yyyy”, as applicable.
Individual Tied Insurance Intermediaries should detail the date of enrolment.
In cases where no licensing, registration, authorisation, recognition or enrolment was necessary and where no warrant was issued, enter the date when operations commenced.
In case of multiple licences enter the date of the first licence.
Where both licence and registration dates are available, enter the date of licensing.
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- A3. Registered address To search for the post code of an address in Malta you may access the Maltapost website on <http://postcodes.maltapost.com>.
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- A4. Correspondence address To search for the post code of an address in Malta you may access the Maltapost website on <http://postcodes.maltapost.com>.
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- A5. Connected undertaking A “connected undertaking” is a separate and distinct entity, regardless of its legal form, carrying out activities falling within the definition of relevant financial business or relevant activity that is effectively managed by or promoted with the subject person or as a related undertaking of the subject person.
All connected undertakings which are themselves subject persons in terms of the PMLFTR should be listed, otherwise this sub-section of the report should be left blank.
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B. Customers

B1. Customer type	<p>“Corporate customers” include public and private companies, partnerships, foundations or associations, and trustees.</p> <p>“Individual customers” are limited to natural persons.</p>
B2. Customer residence	<p>This refers to the residency status of the applicants for business and beneficial owners, irrespective of their nationality.</p>
B3. Dealings with high-risk jurisdictions	<p>For each category indicate whether the subject person has any dealings by marking “Yes” or “No”, irrespective of whether these involve a business relationship or the carrying out of an occasional transaction.</p> <p>By way of clarification, both the residency and nationality of the applicant for business and/ or beneficial owner would necessarily need to be taken into account for the purposes of this sub-section.</p> <p>For a list of countries included in each of the Categories subject persons might wish to refer to the Guidance Note on High-Risk and Non-Cooperative Jurisdictions (incorporated as Appendix III of the FIAU Implementing Procedures) and the most recent FATF public documents, which are also posted on the FIAU website.</p>
B5. Politically Exposed Persons	<p>Indicate whether the subject person has any dealings with Politically Exposed Persons (‘PEPs’), irrespective of whether these involve a business relationship or the carrying out of an occasional transaction. This is irrespective of the actual number of PEPs being serviced.</p> <p>Subject persons might wish to refer to Section 3.5.3.1 of the FIAU Implementing Procedures in order to determine who qualifies as a PEP.</p>
B6. Reliance	<p>Indicate whether the subject person places reliance in terms of Regulation 12 on a third party or another subject person to fulfil the customer due diligence requirements provided for under Regulation 7(1)(a) to (c), irrespective of the number of applicants for business and/ or beneficial owners involved.</p>

C. Money Laundering Reporting Officer (MLRO)

C1. Appointment date as MLRO The appointment date should reflect the date on which you became subject to the PMLFTR. This is either on the 12th August 2003 (or the 29th August 2000 in the case of Individual Tied Insurance Intermediaries) or on any later date when you commenced undertaking any relevant financial business and/ or relevant activity.

C1. Approval date as MLRO All MLROs working as a subject person that is licensed, authorised, recognised, registered or enrolled by the Malta Financial Services Authority (MFSA) need to outline the date when the Supervisory Authority approved their appointment as MLRO.
In all other cases kindly type in "Not Applicable".

C1. Country of residence Fill in your ordinary place of residence.
Persons who ordinarily reside in more than one country should fill in the number of months they usually reside annually in their principal place of residence in brackets – for example "Malta (8 months)".

C1. Identification document "e-Residence" refers to the newly introduced e-Residence document that is being issued in the place of ID Cards to non-Maltese local residents.

C1. Office telephone number Wherever possible, MLROs should detail their direct telephone number(s).

C1. E-mail address It is important to ensure that the e-mail address given is used exclusively by the MLRO or has restricted access in view of the confidential information that could be transmitted by the FIAU.

D. Suspicious Transaction Reports (STRs)

D1. STRs submitted to the FIAU Fill in the number of STRs submitted to the FIAU for each activity carried out by the subject person in the respective order outlined earlier in Section A. Each and every activity undertaken must include a number between 0 (None) and 25. Select the "Not Applicable" option wherever appropriate. For instance, if the subject person carries out 2 activities, Activity (1) and (2) should include the actual number of STRs (even if this is "None"), while Activity (3), (4) and (5) should each be marked as "Not Applicable".

D3. Reasons Each reason should be clearly explained.
Though answers should be as concise as possible, there is no limit on the number of characters that could be used in each of the boxes.

E. Compliance

E1b. Procedures manual The “Not Applicable” options should only be utilised where subject persons have marked “No” in E1a.
In all other cases both the “Month” and “Year” when the procedures manual was last updated should be specified.

E2. Customer Acceptance Policy The Customer Acceptance Policy could form an integral part of the subject person's procedures manual, and need not necessarily be a stand-alone document.

E4. Risk assessment The “Not Applicable” option should only be used as intended, and is not interchangeable with “No”. Examples of situations where it will be possible to mark the “Not Applicable” option are listed hereunder:
Customer risk – situations where the subject person only services applicants for business and beneficial owners that qualify for simplified due diligence.
Product/ service risk – possibly where subject persons only provide a single product or service.
Interface risk – when subject persons only carry out the identification and verification procedures on a face-to-face basis and obtain the necessary documentation first-hand.
Geographical risk – in cases where business is restricted to local Maltese residents.
Kindly note that the examples outlined above are by no means exhaustive, and are outlined solely for indicative purposes

E6c. Record keeping Subject persons who marked “No” in E6a should choose “None”.

G. Other Information

G1. This section has been included to allow subject persons to further explain or clarify any of the information provided in earlier sections of the report.
Subject persons are invited to forward any additional comments with respect to their submission.
