



MALTA COMMUNICATIONS AUTHORITY

Notification form to provide qualified trust services

Malta Communications Authority

Valletta Water Front, Pinto Wharf,
Floriana FRN 1913, Malta, Europe.
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1. General Information

In accordance with Article 21 of Regulation (EU) No. 910/2014 of the European Parliament and of the Council of 23 July 2014 on electronic identification and trust services for electronic transactions in the internal market and repealing Directive 1999/93/EC (the 'eIDAS Regulation'), a person established in Malta who intends to provide a qualified trust service (the 'notifying TSP') is required to submit to the Malta Communications Authority ('MCA'), being the competent national supervisory body for the purposes of Chapter III of the eIDAS Regulation, a notification form including with it such information, however so described, as is required in accordance with the eIDAS Regulation and such other information as the MCA may from time to time require.

1.1 Notification Form

The notification form is to be completed in its entirety and sent to the MCA.

The notification form is to be converted to a PDF document and signed using a qualified electronic signature created by a legal representative of the notifying TSP or sealed using a qualified electronic seal created by the notifying TSP. The signature on the PDF document should be compliant with the applicable signature format standard referred to in Commission Implementing Decision (EU) 2015/1506¹.

The duly completed and signed/sealed notification form together with the documentation indicated in section 1.2 of the present form and payment of the applicable fees due in accordance with the Electronic Trust Services Notification and Fees Regulations, 2016 (LN 248 of 2016) is to be submitted to the MCA at the email address info@mca.org.mt.

In addition an original copy of the duly completed notification form together with the documentation indicated in section 1.2 of this form is submitted to the MCA in an envelope clearly marked: "Notification to provide qualified trust services" which must be delivered by hand or registered mail (and also furnished electronically) and addressed to:

**The Chairman
Qualified Trust Service Notification
Malta Communications Authority
Valletta Waterfront
Pinto Wharf
Floriana FRN 1913
Malta**

¹ Commission Implementing Decision (EU) 2015/1506 of 8 September 2015 laying down specifications relating to formats of advanced electronic signatures and advanced seals to be recognised by public sector bodies pursuant to Articles 27(5) and 37(5) of Regulation (EU) No 910/2014 of the European Parliament and of the Council on electronic identification and trust services for electronic transactions in the internal market. OJ L 235, 9.9.2015, p. 37–41.

The MCA shall endeavour to acknowledge receipt of any such notification within three working days of its receipt. It shall however be the responsibility of the person submitting such a notification to ensure that the notification has been duly received by the MCA.

Acknowledgement of receipt shall not in any manner be interpreted as signifying that the MCA considers that the trust service provider complies with the requirements of the eIDAS Regulation and any other relevant norms under national legislation.

The MCA shall in accordance with the provisions of Article 21 of the eIDAS Regulation inform the trust service provider concerned as to whether it considers the provider and the trust services it provides comply with the requirements laid down in this eIDAS Regulation – specifically with the requirements for a qualified trust service provider and for the qualified trust services it provides.

Qualified trust service providers may begin to provide the qualified trust service ONLY after the qualified status granted by the MCA has been included in the trusted list of Malta (https://www.mca.org.mt/tsl/MT_TSL.xml). The provision of such services in breach of the applicable requirements law are subject to criminal or administrative sanctions as provided for at law.

1.2 Documents to be submitted at Notification Stage

The following documents must be provided along with the duly filled in and signed/sealed notification form:

- a) Conformity Assessment Report (CAR) issued by a Conformity Assessment Body (CAB) duly accredited as per the requirements of the Regulation. In particular:
 - a. The MCA shall recognise a CAB as duly accredited as per the requirements of the eIDAS Regulation when the CAB has been accredited by a national accreditation body under Regulation (EC) No 765/2008² and when the accreditation certificate certifies that the CAB:
 - i. Fulfils the requirements of the standard ISO/IEC 17065:2012, and
 - ii. Fulfils the requirements of the standard ETSI EN 319 403 V2.2.2 (2015-08), and
 - iii. Has the skills and competencies to certify that the assessed trust service provider and the trust services provided by it comply with the requirements laid down in the eIDAS Regulation, and in particular, with the requirements for qualified trust service providers and for the qualified trust services they provide.
 - b. The MCA may recognise a CAB as duly accredited as per the requirements of the eIDAS Regulation when the CAB has been accredited by a national accreditation body under Regulation (EC) No 765/2008 and another normative scheme as the one specified in (a).a.(i) to (iii) provided such an alternative normative scheme has been recognised as equivalent.
 - c. The purpose of the CAR is to certify that the assessed trust service provider and the trust services provided by it comply with the requirements laid down in the eIDAS Regulation,

² Regulation (EC) No 765/2008 of the European Parliament and of the Council of 9 July 2008 setting out the requirements for accreditation and market surveillance relating to the marketing of products and repealing Regulation (EEC) No 339/93 (Text with EEA relevance).OJ L 218, 13.8.2008, p. 30–47.

and in particular, with the requirements for qualified trust service providers and for the qualified trust services they provide.

- d. The CAR is to provide sufficient details to demonstrate that the assessed trust service provider and the trust services provided by it comply with the requirements laid down in the eIDAS Regulation, and in particular, with the requirements for qualified trust service providers and for the qualified trust services they provide.
 - e. The structure and the information provided in the CAR is to be aligned with the specifications provided in Annex I of the present notification form.
- b) Memorandum and Articles of Association.
 - c) Audited Financial Statements (last 3 years).
 - d) Trust service policy(ies) that applies(apply) to the trust services for which a qualified status is requested.
 - e) Trust Service Practice Statement that applies(apply) to the trust services for which a qualified status is requested.
 - f) Trust service detailed architecture (e.g. PKI hierarchy along with the indication of the supported trust service policies).
 - g) Test samples of all relevant and applicable types of outputs from the qualified trust services the Notifying TSP intends to start providing.
 - h) List of standards:
 - a. with which operations are claimed to be compliant;
 - b. with which operations are audited, evaluated, certified or assessed to be compliant and details about the underlying audit, evaluation, certification or assessment scheme.
 - i) Copy of standard end-user agreement.

PART A – INFORMATION ABOUT THE TRUST SERVICE PROVIDER		
Organisation Name (as appearing in official registers)	Organisation	
Address		
Postcode / town		
Country		
Contact	Tel	Fax
Address	E-mail	

PART B - INFORMATION ON THE TYPE OF QUALIFIED TRUST SERVICE TO BE PROVIDED
<p>Detailed information on the type of qualified trust service shall be attached.</p> <p>Qualified trust services provided (tick):</p> <p><input type="checkbox"/> Qualified certificate for electronic signature (Art. 28 of the eIDAS Regulation)</p> <p><input type="checkbox"/> Qualified certificate for electronic seal (Art. 38 of the eIDAS Regulation)</p> <p><input type="checkbox"/> Qualified certificate for website authentication (Art. 45 of the eIDAS Regulation)</p> <p><input type="checkbox"/> Qualified validation service for qualified electronic signatures (Art. 33 of the eIDAS Regulation)</p> <p><input type="checkbox"/> Qualified validation service for qualified electronic seals (Art. 40 of the eIDAS Regulation)</p> <p><input type="checkbox"/> Qualified preservation service for qualified electronic signatures (Art. 34 of the eIDAS Regulation)</p> <p><input type="checkbox"/> Qualified preservation service for qualified electronic seals (Art. 40 of the eIDAS Regulation)</p> <p><input type="checkbox"/> Qualified electronic time stamps (Art. 42 of the eIDAS Regulation)</p> <p><input type="checkbox"/> Qualified electronic registered delivery services (Art. 44 of the eIDAS Regulation)</p>

PART C - INFORMATION ON FINANCIAL RESOURCES

Information on the provider's economic resources shall be attached.

Financial resources are covered by (tick):

Capital adequacy Insurance Both Other

The enclosed information about the selected scheme must be able to show sufficient economic resources to be able to run a business in accordance with the requirements laid down in law for electronic signature.

PART D - TRUST SERVICE POLICY

The provider's trust service policy(ies) that applies(apply) to the trust services for which a qualified status is requested must be attached and should be accompanied by a valid URL where the policy(ies) and other relevant documents are published. The trust service policy(ies) should indicate the level of security for the service and should contain information about their provision and who is responsible for security in this connection.

PART E - PUBLISHING OF INFORMATION

The Malta Communications will keep updated information pages on the provision of qualified trust services on the address <http://www.mca.org.mt/general/electronic-signatures-tsl>

Do you want a link to your website from the MCA website (tick): Yes No

If yes, enter the correct address

PART F - SIGNATURE

The undersigned, hereby declares that the certificate issuer that is registered on this form meets the requirements of the Act and regulations that apply to issuers of qualified certificates, and that information given on this form is correct.

Date

Location

Signature of authorised signatory

PART G – EXHAUSTIVE LIST OF DOCUMENTS ATTACHED TO THIS NOTIFICATION FORM

The list is to be structured against the numbered list in section 1.2 of the present notification form.

PART H - OTHER INFORMATION / NOTES

Annex I – CAR structure and the information to be provided along with Notification Form

The MCA makes a decision on the qualified status of a trust service provider and on the qualified trust services it intends to start providing on the basis of the verification of their conformity with the requirements of the eIDAS Regulation. This verification includes the analysis of a conformity assessment report (CAR) issued by an accredited conformity assessment body (CAB).

The purpose of the CAR notified by the TSP to the MCA is to certify that the assessed trust service provider and the trust services provided by it comply with the requirements laid down in the eIDAS Regulation, and in particular, with the requirements for qualified trust service providers and for the qualified trust services they provide.

In order to bear sufficient details to demonstrate such a conformity, the CAR is to meet the following requirements.

- 1) The CAR shall clearly identify the name of the CAB, and where applicable the registration number, as stated in the official records, its official postal address and electronic address.
- 2) The CAR shall clearly identify the CAB as a certification body and the name of the national accreditation body (NAB) having accredited the CAB, and where applicable the registration number, as stated in the official records, its official postal address and electronic address of the NAB.
- 3) The CAR shall include a link to the accreditation certificate issued by the NAB identified in accordance with point (2).
- 4) The CAR shall clearly identify the name of the CAB responsible person having issued [and signed] the CAR.
- 5) The CAR shall clearly identify the name of the assessed trust service provider, and where applicable the registration number, as stated in the official records, its official postal address and electronic address.
- 6) The CAR shall clearly identify the (list of the) qualified trust services of the trust service provider for which the CAR certifies the conformity with the requirements of the eIDAS Regulation. The identification of those services is to align with part B of the present notification form.
- 7) The CAR shall provide for each qualified trust service identified in point (6) a detailed description of the functional (PKI) architecture or hierarchy with the purpose to allow identification of the service(s) to be listed in the applicable national trusted list.
- 8) The CAR shall identify the exhaustive list of public and TSP internal documents that have been the subject matter of the audit. The public documents shall either be attached to the CAR or publicly accessible links shall be provided allowing download of those documents. Public documents shall include, as a minimum:
 - a. The declaration of the practices used by the TSP to provide the qualified trust services;

- b. The qualified trust service policy(ies), i.e. the set of rules that indicates the applicability of the qualified trust service to a particular community and/or class of application with common security requirements;
 - c. Termination plan;
 - d. Subscriber agreement and related terms and conditions
- 9) The CAR shall identify, for each stage of the audit as identified in EN 319 403 (documentation audit and implementation audit including onsite inspections), the period during which the audit has been conducted (elapse time) and the effort in man-days engaged by the CAB to conduct the audit.
- 10) For each of the following eIDAS requirements, the CAR shall provide a report on the fulfilment by the TSP and the implementation of its qualified trust services of the requirement, as well as the detailed audit controls and control objectives that has been conducted during the audit to establish the fulfilment report with an indication of each non-conformities and their level of importance.
- a. **General requirements** for qualified TSPs and for each type of qualified trust services (with indication of relevant articles of eIDAS Regulation)
 - i. Data processing and protection (Art.5)
 - 1. Art.5.1. Processing of personal data shall be carried out in accordance with Directive 95/46/EC.
 - 2. Art.5.2. Without prejudice to the legal effect given to pseudonyms under national law, the use of pseudonyms in electronic transactions shall not be prohibited.
 - ii. Liability and burden of the proof (Art.13)
 - 1. (Art.13.1) TSP liable for damage caused intentionally or negligently to any natural or legal person due to a failure to comply with the obligations under this Regulation
 - a. Burden of proving intention/negligence of non-qualified TSP is on claiming party.
 - b. Intention or negligence of a QTSP shall be presumed, unless proven otherwise by QTSP.
 - 2. (Art.13.2) When TSP informed customer in advance on limitations on the use of their services, & when such limitations are recognisable to third parties, TSP not liable when limitations have been exceeded.
 - 3. (Art.13.3) In accordance with national rules on liability.
 - iii. Accessibility for person with disabilities (Art.15)
 - iv. Due diligence (Art.19.1)
 - 1. TSP shall take appropriate technical and organisational measures to manage the risks posed to the security of the trust services they provide.
 - 2. Having regard to the latest technological developments, those measures shall ensure that the level of security is commensurate to the degree of risk.
 - 3. Measures shall be taken to prevent and minimize the impact of security incidents and inform stakeholders of the adverse effects of any such incidents
 - v. Security & personal data breach notification (Art.19.2)
 - 1. TSP shall, without undue delay but in any event within 24 hours after having become aware of it, notify the supervisory body and, where applicable, other relevant bodies, such as the competent national body for information security or the data protection authority, of any breach of security or loss of integrity

- that has a significant impact on the trust service provided or on the personal data maintained therein.
2. TSP shall also notify the [likely adversely affected] natural or legal [customer] of the breach of security or loss of integrity without undue delay.
 3. May be required by the supervisory body to inform the public, when it is in the public interest.
- vi. Art.20 Supervision of qualified trust service providers
1. The TSP ensures that it is audited at least every 24 months by an accredited CAB in order to confirm fulfilment of the requirements of the eIDAS Regulation.
 2. The TSP allows the competent supervisory body and a CAB to audit the compliance with the requirements of the eIDAS Regulation.
 3. Where the supervisory body requires from the TSP to remedy any failure to fulfil requirements under the eIDAS Regulation, the TSP will act accordingly within the set deadline.
- vii. Art.24.2 of the eIDAS Regulation:
- (a) Inform SB of any change in QTS provisioning and of intention to cease;
 - (b) Requirements on staff;
 - (c) Sufficient financial resources and/or liability insurance, in accordance with national law;
 - (d) Consumer information on terms and conditions, incl. limitations on use;
 - (e) use trustworthy systems and products;
 - (f) use trustworthy systems to store (personal) data;
 - (g) take appropriate measures against forgery and theft of data;
 - (h) Record and keep accessible activities related data, issued and received, even after cessation;
 - (i) Up-to-date termination plan (to be agreed with SB) to ensure continuity of service;
 - (j) Ensure lawful processing of personal data in accordance with Directive 95/46/EC.

b. Specific requirements for the applicable type of qualified trust service

i. Qualified certificate for electronic signature

1. Art.24.1.a) to d)
2. Art.24.2.k)
3. Art.24.3
4. Art.24.4
5. Art.28.1 – Annex I
6. Art.28.3
7. Art.28.4
8. Art.28.5

ii. Qualified certificate for electronic seal

1. Art.24.1.a) to d)
2. Art.24.2.k)
3. Art.24.3
4. Art.24.4
5. Art.38.1 – Annex III
6. Art.38.3

7. Art.38.4
8. Art.38.5

iii. Qualified certificate for website authentication

1. Art.24.1.a) to d)
2. Art.24.2.k)
3. Art.24.3
4. Art.24.4
5. Art.45.1 – Annex IV

iv. Qualified validation service for qualified electronic signatures (Art.33.1)

v. Qualified validation service for qualified electronic seals (Art.40)

vi. Qualified preservation service for qualified electronic signatures (Art.34.1)

vii. Qualified preservation service for qualified electronic seals (Art.40)

viii. Qualified electronic time stamps (Art.42.1.(a) to (c))

ix. Qualified electronic registered delivery services (Art.44.1.(a) to (f))

- 11) When the conformity is additionally certified against a specific standard or publicly available specifications, the report on the fulfilment by the TSP and the implementation of its qualified trust services against such standard or specifications that has been conducted during the audit shall be provided as separate documents with an indication of the non-conformities and their level of importance.
- 12) The CAR shall detail the list of the third parties entrusted by the TSP to perform all or parts of its processes supporting the provision of its qualified trust services. The CAR shall detail which of these parties have been subject to the audit.
- 13) The CAR shall indicate by when the next surveillance audit and the next compliance audit have to be conducted at the latest.
- 14) The CAR shall indicate under which circumstances an accredited conformity assessment body has to be involved in reassessing the assessed TSP and the qualified trust services in addition to the planned audits.