Investment Services - Why MALTA?

MFSA
Malta Financial Services Authority

Introduction

Malta joined the European Union in 2004 and benefits from the harmonisation of EU financial services regulation, including the UCITS passport. It adopted the euro as its currency in 2008.

As Malta's single financial services regulator, the Malta Financial Services Authority ("MFSA") regulates banking, financial institutions, insurance companies, investment services companies, securities, recognised investment exchanges and admissibility to listing, trust management companies and pension schemes. It is an autonomous public institution and self-funded.

The MFSA is a very active member of EU regulatory committees, ESMS, EIOPA and EBA and is also a member of IOSCO and IAIS. Malta is very pro-active in the EU financial services sector particularly in the recent implementation of the AIFM Directive and UCITS IV Directive. Malta has continuously topped the scoreboard of Member States for the timely implementation of internal market rules for financial services.

The MFSA has signed a considerable number of MoUs with various non-EU jurisdictions, including Australia, South Africa and China. Negotiations are on going with various other countries. The MFSA has signed the IOSCO multilateral MoU and also exchanges information under this agreement.

Why Malta as an investment company and funds domicile?

Malta started developing as a financial centre in 1994. However, Malta came under the spotlight following EU accession in 2004. Since then it has gained a reputation for a robust regime (without being unduly prescriptive) with a highly approachable regulatory authority. It has been internationally recognised that the Maltese regulations provide a secure and stable framework for prudential supervision, consumer protection, market surveillance and prevention of money laundering.

Staff at MFSA have gained considerable experience through training with other regulators and financial institutions in the UK, Europe and the US. Regulators from BaFIN, FSA and the SEC visit Malta on a regular basis to train staff.

"a secure and stable framework"

Maltese accountants are trained under IFRS, which Malta adopted in 1998. The World Economic Forum Report on Competitiveness (2012) places Malta and Luxembourg joint 15th on the strength of auditing and reporting standards.

The Maltese legal profession is a long established profession and most professionals have had further training at major institutions overseas particularly in the UK.

The University of Malta and the financial training centres are producing sufficient graduates to meet the demand in training of lawyers, accountants, investment managers, fund managers, fund administrators and so forth. The MFSA has set up an Education Consultation Council composed of all finance industry training associations. There are over 10,000 employees in the financial services sector, which has expanded by around 25% in recent years and in direct intermediation contributes 8.5% to the GDP of Malta.

The Maltese regulatory framework is robust and adaptable, allowing managers and promoters to innovate and to develop new products to meet the changing needs of the fund industry. The MFSA works to fixed time lines agreed with each individual applicant. All regulators meet directly with operators to discuss their requirements. Malta's approach is based on:

1. Emphasis on Disclosure
2. Reliance on Fit and Proper Status of Directors, Senior Management and Service Providers

3. Avoidance of Prescriptive Regulation to enable flexibility for promoters
4. Licensing is very rapid compared to other jurisdictions

Malta has an imputation system of taxation whereby companies pay corporate tax at 35%. This tax is regarded as a prepayment for the tax due by the shareholder upon the eventual distribution of profits. On declaration of dividend the shareholders receive a refund of 6/7 of the corporate tax paid by the company.

It has been approved by the EU in 2007 under State Aid and Code of Conduct. Malta has a continuously expanding worldwide network of over 65 tax treaties (with all EU and most OECD members). New treaties are being negotiated with various Latin American countries.

Malta was one of a group of jurisdictions that was placed immediately on the OECD's 'white list' of countries and territories that had both embraced and substantially implemented the tax standards.

"a worldwide network of over 65 tax treaties"

Funds domiciled in Malta pay no tax and non-resident investors are not subject to any withholding tax. Capital gains realised by investors who are not resident in Malta are not subject to tax in Malta. Transfers of shares in a licensed fund are exempt from stamp duty. There is no value added tax on fund management, fund administration as well as custody services.

The Investment Services and Funds Sector

The MFSA does not apply a "one-size fits all" to investment companies. A category of licences has been created depending on the type of investment services, a company intends to provide.

Category 1: Provide any investment service but do not hold or control clients' money/assets nor deal for their own account/underwrite (excludes fund management companies)

Category 2: Provide any investment service and hold or control clients' money or assets, but do not deal for their own account or underwrite (includes stockbrokers and fund management companies) [Fund Administrators who solely intended to provide administration services may only apply for Recognition]

Category 3: Provide any investment service, hold and account and underwrite

Category 4: Act as trustees or custodians of collective investment schemes

All Investment companies have to be MiFID compliant and can passport their services to other Member States.

Malta offers a range of fund vehicles (including investment companies, mutual funds, limited partnership, foundations and unit trusts), which can be tailored to suit investor requirements and investment policy. Different kinds of scheme structures can be established (schemes can also be established as Self Managed):

1. Investment companies with fixed or variable share capital (INVCOs/ SICAVs)
2. ICCs: SICAV Incorporated Cell Companies or Recognised Incorporated Cell Companies
3. Unit trusts
4. Common Funds; Possibility of setting up Special Investment Vehicles regulated as part of the same scheme
5. Limited Partnerships: Capital may or may not be divided into shares Multi-fund & Multi-Class structures, with or without segregation of assets can also be set up.

"Tailor-made fund vehicles"

In May 2004 before entry into the EU there were less than 30 funds/ sub-funds licensed by the MFSA. Today there are around 900 funds/sub-funds domiciled in Malta ranging from pan-European retail funds (UCITS) to hedge funds (Alternative Investment Funds commonly known as Professional Investor Funds) and other forms of alternative investment vehicles that has been licensed by the MFSA. Fund promoters originate from various EU and non-EU countries including the USA. A number of promoters are Swiss based. Three types of Professional Investor Funds can be established. These are the Experienced, Qualifying And Extraordinary Investor Regimes. The MFSA has fully transposed the UCITS IV Directive during 2012 and is currently transposing of the AIF Directive.

Funds domiciled in Malta are distributed within the EU and outside the EU. UCITS funds domiciled in Malta are passported to various Member States. They are also distributed in Hong Kong and Singapore. UCITS is today a recognised worldwide brand. Alternative Investment Funds are distributed on a private placement basis.

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