



FINANCIAL SERVICES MALTA

Malta has, over the past two decades, emerged as a serious jurisdiction in the world of financial services, offering a trustworthy alternative to traditional EU financial services jurisdictions such as Ireland and Luxembourg. Indeed, Malta has been very successful at attracting various financial businesses towards its shores, with the jurisdiction gaining considerable traction in the hedge funds, investment, foreign exchange and captive insurance markets.

Malta's growth in the financial services industry can be attributed to a diversity of features, including the support towards the industry given by the Maltese Government, the multi-lingual work force, as well as Malta's admission to the EU in 2004 and the Eurozone in 2008. In the past decade, Malta has also undergone a restructuring process bringing all its financial legislation in conformity with international best practice. Furthermore, the soundness of the country's financial system is demonstrated by the fact that the local banking system is emerging relatively unscathed from the financial crisis.

All these factors, together with the local authority's (the Malta Financial Services Authority) firm but flexible approach, have helped Malta to become the jurisdiction of choice for renowned financial businesses who seek to establish themselves in a secure and well-regulated EU domicile.

Despite being a relatively new player in the world of financial services, Malta already presents a stable and successful history in this sector. Malta forms part of a very extensive network of double taxation treaties. Furthermore, Malta has transposed and implemented all the EU financial services directives. EU membership also offers a number of fiscal and business promotional incentives and other advantages including the single passport regime. This, coupled with a stable economy and an efficient regulator, has placed Malta on the financial map as a very significant and competitive jurisdiction.



The Malta Financial Services Authority (MFSA) is the single regulator for financial services activities in Malta. It was established on 23 July 2002 and is the legal successor to two former regulatory structures: the Malta International Business Authority (MIBA); and the Malta Financial Services Centre (MFSC) - whose roles it has continued and developed.

The MFSA is responsible for the regulation, monitoring and supervision of all financial activity including banking, investment, insurance and pensions. The MFSA is also responsible for authorisation, that is, the process by means of which financial firms are allowed to start providing their services to customers. Furthermore, the MFSA manages the Registry of Companies and has taken over responsibility as the Listing Authority.



Investment Services

The Investment Services Act 1994 regulates the licensing of investment services firms and of collective investment schemes. In general, there are four types of licences that can be obtained in relation to investment services firms, and the applicable license would very much depend on the type of activity that the firm will carry out.

As relates to collective investment schemes, Maltese legislation caters for three main types: Retail Schemes (UCITS and non-UCITS), Private Collective Investment Schemes, as well as Professional Investor Funds. Malta has experienced a considerable increase in the latter type of funds due to the fact that Maltese law provides a number of advantages including exemption from tax for a fund which has 15% or more of its portfolio invested in assets outside of Malta. In general Maltese law also allows for a certain level of flexibility in structuring one's fund, such as the possibility to have a self-managed fund. Within certain parameters, it is also possible to make use of service providers that are not based in Malta.

Banking

The setting up of credit institutions and e-money institutions in Malta is currently regulated by the Banking Act 1994. In order to be granted a licence the company must adhere to a number of requirements, including minimum capital requirements. The obtaining of a banking license allows the firm to conduct other ancillary services as well.

Financial Institutions

The Financial Institutions Act 1994 can be considered as being an “offshoot” of the Banking Act 1994. It covers institutions that regularly or habitually undertake activities such as lending, the giving of guarantees and venture or risk capital, but do not take deposits from or other funds repayable to the public. Indeed, the latter is the main difference between a bank/credit institution and a financial institution. The financial institutions regime allows licensees to provide services traditionally provided by banks, but with a considerably lesser amount of minimum initial share capital and compliance rules.

Insurance

Insurance Business in Malta is regulated under the Insurance Business Act, 1998 which provides for the authorisation and supervision of insurance companies. On the other hand, Insurance Intermediaries Act, 2006, then regulates the licensing of other players such as insurance brokers, insurance agents and insurance managers. Protected cell companies are also structures catered for under the Maltese regime.

The Licensing Process

In order to obtain a license, a firm has to satisfy the MFSA that its business is being carried out 'in or from Malta'. This means that the firm has to have a degree of local substance commensurate to the quantity and the quality of the business which it will be carrying out in Malta. The firm also needs to satisfy the MFSA that it is being run by persons who are fit and proper to conduct the business of the firm.

The licensing process for the obtainment of a license can be divided into three stages: the preparatory stage, the pre-licensing stage and the post-licensing or pre-commencement of business stage.



The Preparatory Stage

This stage commences with a formal meeting with the MFSA in order to discuss the projected application before the submission of the draft application documents and any other supporting documentation. The documentation would typically include the offering documents for collective investment schemes, business plans for financial businesses, schemes of operations for insurance principals, and financial projections for all types of set-ups.

In order for the MFSA to grant a licence, it must be satisfied that the applicant fulfils the minimum criteria relating to prudent conduct, fit and proper persons, integrity, professional staff and safety of potential depositors/clients.

The Pre-Licensing Stage

In the pre-licensing stage, the MFSA will issue an 'in principle' approval for the license. After such 'in principle' approval is issued, the applicant would proceed to the incorporation of the corporate vehicle and the submission of the final signed application form.

The Post-Licensing / Pre-Commencement of Business Stage

At this stage, the firm must satisfy all the ad hoc requirements arising in the post licensing/pre-commencement of business stage. Once a license is issued, the firm would then need to comply with a number of conduct-of-business rules that seek to safeguard the welfare of both the consumer as well as that of the service providers themselves.



Tax & Other Advantages

Protection of Investors

Maltese financial services legislation makes it illegal for any person to provide a financial service in or from Malta unless such person is in possession of a valid financial services licence. This requirement ensures that only persons who are serious and competent are allowed to carry on such business in Malta. Upon issue of the license, the regulated entity needs to abide by a number of rules that ensure that the consumers are being treated fairly and that the entity itself is abiding by certain requirements of an ongoing nature. Most of these requirements are related to sufficient liquidity.

Favourable Tax Treatment

Maltese Financial Services License Holders, whose activities are limited to services from Malta but not in Malta (i.e. not necessarily dealing with Maltese individuals) could benefit from the use of the Maltese International Company as the corporate vehicle wherein they are subject to a corporate tax of 35% but non-resident shareholders would then benefit from a very attractive tax refund ending up in a final rate of taxation of 4.17%.



Excellent Legal, Accounting & Banking Services

Malta has established a worldwide reputation for its excellent legal, accounting and banking services. The main advantages that Malta offers in this respect are the considerably lower costs in the provision of these services, reduced unwarranted red-tape bureaucracy, maintenance of high standards and efficiency.

Setup & Operational Costs

The costs of acquiring a financial services license in Malta and setting up of the corresponding corporate vehicle as well as the running expenses of the Company are reasonable and relatively lower than the same costs in other financial centres in Europe.

Passporting Rights in Europe

Due to the compliance of Maltese Law with the relevant EU Directives, a Malta Financial Services Company is able to operate in any other country member of the European Union either directly through the provision of services, or else through the establishment of a branch. This may be regarded as an advantage of great importance for non-EU companies which wish to expand their operations into Europe.

HOW CAN WE HELP?

The firm assists businesses operating in every sector of the financial services industry in the obtainment of regulatory authorisations as well as with post-licensing compliance matters. Clients who choose our firm do not simply purchase a commoditised advisory service, but acquire a trusted business partner who adds expertise and long-term value to their operation. Our typical clients include investment advisers, funds and fund managers, insurance principals and intermediaries, as well as businesses operating in the banking sector.

Although the firm maintains close relationships with the local market, our specialised international experience has allowed us to build a global clientele. Indeed the majority of our clientele is composed of foreign financial services professionals seeking to use Malta's advantageous legal and fiscal regime as a launch platform for the penetration of the EU marketplace, and who are interested in the seamless, one-stop-shop service, which our multi-disciplinary firm offers.

Our typical services would include:

- Licensing and authorisation
- Vetting and preparing all documentation for submission
- Drafting of prospectus/business plan/ scheme of operations
- Drafting of financial projections
- Representation with MFSA
- Introduction and negotiations with service providers
- Co-ordination of projects whenever multiple parties are involved
- Post-licensing compliance
- Passporting
- International tax planning
- Company formation and administration
- Accounting and financial reporting
- Recruitment and relocation services
- ICT infrastructure design and installation
- Branding and trademarks

Testimonial

"We would like to express our respect and appreciation for this law firm in bringing outstanding contribution to our project ... we have been able to appreciate fully its services and pieces of advice; indeed the lawyers in the firm helped and are helping us in each step of the project. All lawyers we have worked with are very professional and highly qualified; they have proved to handle responsibility very well and to have a wide range of skills. We are very pleased to admit that, without their support, such a big and important project could not be developed"

Luca Bucciarelli, Anemon Finance Spa

Firm Overview

Our Advisory Team



Dr Jean-Philippe Chetcuti
Managing Partner



Dr Maria Chetcuti-Cauch
Senior Partner



Kenneth Camilleri
Partner



Dr Priscilla Mifsud-Parker
Partner



Michelle de Maria
Manager, Tax



Dr Silvana Zammit
Manager, Legal



Dr Charles Cassar
Manager, Legal

Our areas of practice include:

LEGAL

Art & Cultural Property
Aviation Law
Banking & Finance
Capital Markets
Commercial Law
Company Law
Dispute Resolution
Employment & Labour
Gaming Law
Immigration & Relocation
Insurance Law
Intellectual Property Law
Investments Funds
Investments Services
Maritime Law
Media & Entertainment Law
Property & Development Law
Public Service Law
Technology & Telecoms Law
Trusts & Estates Law

TAX

Tax Advisory
Tax Compliance

CORPORATE

Corporate Services
Accounting
Fiduciary
HR Management
Technology Management
Tendering Funding

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