

Practitioners Update

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IFSP President outlines achievements for the year

The IFSP managed to achieve a lot for its members and the financial services industry as a whole during 2009/10, Andrew Manduca told the AGM on 20 May in his President's report for the year.

"Make no mistake about this: the robust development of the financial services sector owes no small debt to the world class legal and regulatory infrastructure laid down by successive governments of Malta, but is mostly due to the quality of service provided by practitioners," he told the members gathered at the Malta Stock Exchange for the AGM.

He reminded his audience that the role of the IFSP is to "actively contribute to the continued development of the financial services industry.

"This we achieve through our contributions to and feedback on the theory and practice of regulation and legislation, through suggestions for improvement and active lobbying for the removal of obstacles to our members' ability to provide an efficient, effective service that is compliant to the highest standards, mainly to an international client base," he continued. These ends are achieved through the efforts of the Council and the sub-committees, all working in a variety of directions.

The IFSP held a number of conferences and seminars last year, from the *Commercial Uses of Trusts* seminar to shorter two-hour sessions on Combating

Negative Perceptions of Malta and Trusts in Court, and then the full day seminar *Keeping Abreast of Developments: The IFSP at the Forefront of Change* held last May.

The IFSP Foundation Certificate in Trusts Law and Management course also attracted a substantial number of participants.

2009/10 also saw the IFSP Guidance Notes on the Prevention of Money Laundering and the Funding of Terrorism draw close to completion after a massive effort by the PMLFT sub-committee headed by Juanita Bencini, while the Trusts ad hoc Working Group led by Juanita Brockdorff prepared a memo containing comprehensive proposals for a revision of the Trusts and Trustees Act as well as a series of other laws that have a bearing on trusts. Dr Brockdorff is now on a committee established by the MFSA to draft the revised law.

The Tax sub-committee has been equally busy, contributing

commentaries, analysis and suggestions on no fewer than nine new or revised DTAs. These should prove of great value to practitioners developing international business.

The sub-committee also issued four operational

memoranda to members, and entered into a series of debates and meetings with the International Taxation Unit on a series of issues that have a



The Trust in Court—70 practitioners gathered in early February to learn about judicial treatment of trusts

Comments, suggestions and criticism welcome!

Email us on info@ifsp.org.mt

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direct influence on practitioners.

The IFSP's Investment Business sub-committee has also been following and contributing to the debate on the AIFM Directive, and made a submission for the exemption of CIS managers for registration for data protection purposes.

Mr Manduca concluded saying: "I take this opportunity to thank all the members who have served on Council and on the various sub-committees as well as members who have helped us promote education by sharing their knowledge with other practitioners."

The IFSP's achievements are the achievements of its members! 

Keeping Abreast of Developments

The IFSP devotes a full day seminar to the new developments in taxation as laid out in the Budgetary Measures Implementation Act, focusing on the proposals made by the IFSP, how they have been included and what their impact should be, and on the new responsibilities laid on practitioners' shoulders by the latest incarnation of Malta's anti-money laundering regulations.

Developments in taxation as a result of the 2010 Budget and the responsibilities placed upon practitioners by the Third Anti-Money Laundering Directive provided the heart of the IFSP's full-day seminar *Keeping Abreast of Developments: The IFSP at the Forefront of Change* held at the Radisson Blu Golden Sands on 7 May 2010. Both are areas with the potential to profoundly influence the way Maltese practitioners service their clients.

The 150 participants also learnt about Malta's new aircraft registration regulations and the opportunities it offers, and participated in a debate with leading practitioners on a series of current issues directly affecting their businesses.

The day opened with three tax sessions. Chris Curmi kicked off proceedings examining the Budgetary Measures Implementation Act, looking at the proposals the IFSP had submitted to Government in the run-up to the 2010 Budget, and expanding on how they have been included and the impact they should have.

Neville Gatt then picked up the baton, looking at the anti-abuse measures built into the Budget Implementation Act. Robert Attard struck out at a different angle, with a discussion of a number of new Double Taxation Agreements Malta had negotiated and signed over the previous 12 months.

Before heading off to an excellent lunch and the opportunity to digest the very detailed information provided during the three tax sessions, participants were able to participate in a discussion on current issues and concerns with a panel of four leading practitioners. Kenneth Farrugia, Juanita Brockdorff and Andre Zerafa discussed the ins and outs of issues as diverse as the new AIFM Directive and the threat it poses and the



Practitioners gave their full attention

development of trusts in Malta, moderated by Andrew Manduca.

The afternoon sessions kicked off with Max Ganado's presentation of Malta's new aircraft registration regulations. This was a valuable exercise: besides a clear picture of what the regulations say, their intent and genesis, he also provided a participants with an analysis of how they can be applied and therefore also the opportunities that are now open to practitioners.

This was a warm-up for the main event of the afternoon: a series of presentations on the new version of the anti-money laundering regulations, based upon the IFSP's Guidance Notes on the Prevention of Money Laundering and the Funding of Terrorism.

The section was introduced by Juanita Bencini, followed by an overview of the regulations by the Director of the Financial Intelligence Analysis Unit, Manfred Galdes.

Angie Fleri Soler, David Grech and Michelle Sant then took up the guidance notes themselves, using the guidance provided to discuss the actual implementation of the regulations, published in 2008 and transposing the EU's Third Money Laundering Directive. This is a valuable exercise: the regulations are complex, and a clear and practical guide to how they may be translated into concrete action by busy practitioners is most welcome.

The day's proceedings were brought to a close by Professor Joe Bannister, who discussed the new structure of the MFSA before going on to look at how the regulator will be running its anti-money laundering supervision role.

Comments received during and after the event make it clear that *Keeping Abreast of Developments* was well received, and of value to participants. The challenge to the IFSP is now to continue to live up to the standards it has set for itself. 



Prof Joe Bannister closed the proceedings

New Council for the IFSP

Large proportion of members contribute to the IFSP through sub-committees



Andrew Manduca, IFSP President for another year, outlined achievements for the year

Andrew Manduca was confirmed President of the IFSP during its 21st Annual General Meeting on 20 May 2010. Two new faces joined the Institute's Council – Dr Laragh Cassar and Pierre Galea Musu.

They join Kevin Valenzia, Chris Naudi, Austin Demajo, Diane Vella Bianco, Juanita Brockdorff, Adrian Gabaretta, Diane Vella Bianco, Tonio Ellul, Chris Curmi, Juanita Bencini, Jean-Philippe Chetcuti, Lino Buttigieg, Austin Sammut and Rosanne Bonnici on the Council.

The five standing sub-committees were again confirmed, and continuity in their efforts has been secured.

Each sub-committee chair accepted to continue to serve in the post for a further year, and while the majority of members contributing to IFSP goals through the sub-committees have committed themselves to a further year, they have been joined by a strong influx of new blood.

In fact, a full 20% of IFSP members are currently involved in one or more sub-committees. ■

Malta continues to add to its DTAs

Malta's new double taxation agreements provided the material for one of the tax sessions of the IFSP's *Keeping Abreast of Developments seminar* on 7 May 2010, and deservedly so. The treaties are a valuable tool in making Malta an attractive jurisdiction for investors.

During the seminar, Robert Attard was able to report on five new treaties. Since then, more have been announced and there are others currently in negotiation. Malta's list of more than 55 DTAs continues to grow fast, while older agreements are continually being updated to take new developments and procedures into account. The countries Malta has agreed DTAs with cover the entire globe and every continent.

Malta's first DTA was signed in 1972, with Libya. Approximately one every two years was signed right up to the mid 1990s, when the pace really picked up. The average number of new DTAs signed leapt to five every two years since then.

Just this year, DTAs have been signed with Georgia, Qatar and the Isle of Man. There are agreements in the pipeline with a number of South American countries, and the revision of a number of existing DTAs. Of particular interest is the new version of Malta's DTA with the People's Republic of China. First signed in February 1993, this was Malta's 12th DTA; the new version has been negotiated but is still to be signed and ratified.

The IFSP, through its Tax & Unregulated Business sub-committee, has been called upon by the ITU to provide a commentary and proposals on the text of every DTA under negotiation.

This is not a small task, given the number of texts being reviewed. However, it is worth the effort to ensure that the practical viewpoint of the practitioners gets onto the negotiating table and thence into the agreed text. After all, it is these practitioners who will eventually be using the treaties to provide international clients with the best, most cost-effective services possible.

If any member would like a copy of the text of the DTAs signed recently, please [email a request to the IFSP secretariat](#), or call us on 2569 6352. ■

New website for the IFSP

The IFSP will soon have a new website with improved functionality for its members. Apart from a more user friendly design with easier navigation to the various sections, it includes a search function, making it easier to find a specific document.

The base design and coding is complete. At the moment the Secretariat is updating the content, loading documents and ironing out the minor bugs that always plague this sort of project. We expect the process to be completed by the end of August at the latest; at that stage we will send each member a new interim username and password, and an invitation to log on and confirm or alter the details.

The new website aims to make it easier for members to obtain information and interact with the IFSP. Plans for the further development include the use of collaboration tools to allow Institute members to put their point of view forward with the minimum of fuss, and the inclusion of new areas of interest.

The IFSP Secretariat would welcome members' suggestions of new features or content to include in future developments. There is just one caveat: we are unable to guarantee that each and every suggestion will be implemented. The cost (in both money and time) does have to be taken into account! ■

Transcontinental success

On the IFSP's nomination, Dr Anthony Cremona was invited to address a breakfast briefing at Transcontinental Trusts 2010, held between 30 June and 1 July in Geneva. His presentation was very well received by an audience that included top decision makers—Dr Cremona found there was interest in foundations in Malta.

Dr Anthony Cremona, representing the IFSP, addressed a breakfast briefing at this year's Transcontinental Trusts event on 1 July in Geneva. He briefed a packed room on "Practical Implications of Foundations – a Maltese perspective".

Transcontinental Trusts ran this year on 30 June to 1 July 2010. The event is co-sponsored by FinanceMalta, which also manned a stand promoting Malta at one of the most prestigious gatherings of the global trusts industry, now in its 25th year.

Transcontinental Trusts is attended by leading trusts practitioners from around the world, many of whom are top decision makers and opinion leaders. It is an ideal venue in which to draw attention to Malta's potential.

Dr Cremona's exposition was, according to reports from attendees, very well received and generated considerable interest. He avoided the temptation to turn his address into a hard sell for Malta, instead providing a balanced analysis of Foundations.

The promotion of the Maltese financial services jurisdiction came through strongly in the subtext, through the clear,

professional presentation itself. In the context of Transcontinental Trusts 2010, with the audience this attracts, this proved to be the most effective strategy available.

Dr Cremona opened his presentation with a historical perspective, talking about the well-established roots of the institution in Malta and the most important milestones in recent legislation.

Recent legislation has codified judicial authority and given a coherent, holistic legal regime to organizations like associations and foundations.

He continued with a comparison between foundations and trusts on the one hand, and with company structures on the other, before moving on to look at the roles, responsibilities and rights of the various people involved in a foundation.

Dr Cremona also discussed the powers of the Court along with other means available to safeguard beneficiaries' interests.

After taking a look at the wide range of uses a foundation can be put to, and the use of the institution across Europe, Dr Cremona concluded emphasizing that it is a good thing that jurisdictions embrace new institutions.

This allows professional advisors to choose the most appropriate one for a particular situation. ■

"Extremely informative, instructive and enlightening"
(L.Fenech, Fenech Farrugia Fott Legal)

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"The conference on trusts... It's always great to hear from Justice Hanton, McCall and Bramwell who are all fantastic!"
(R. Moss, Florence)

As Trusts course closes for 2010, IFSP plans new initiatives

The eighth IFSP Foundation Certificate in Trusts Law and Management has now been successfully concluded. The final results are on their way to the 35 people who sat the exam this year, a group that includes students, seasoned practitioners and the entire range of people in between.

The IFSP-run course and examination is accredited by the Society of Trust and Estate Practitioners (STEP), one of the most respected professional associations in the field with 15,000 members in 33 countries across the globe.

People who complete the programme and obtain IFSP Certificate in Trusts Law and Management have taken the

first step towards the full Diploma, and are eligible for associate membership of STEP.

Trusts, however, are not the IFSP's sole concern! There are many areas that may contribute to a member's continued professional development, and the IFSP's Education sub-committee continually seeks to fill any gaps in those needs.

Stating from the last quarter of this year, there are a number of new initiatives being taken, initiatives that should prove to be as interesting as they are necessary. Details are being finalized over the coming weeks, and will be announced to members as they are concluded. Each seminar, course and event will be announced as it is finalized. ■