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Africa FM (AFM): As European investors are increasingly keen on regulated funds, what structures can Malta offer fund managers when domiciling on the island?

Charles Cassar (CC): With respect to the regulatory character of the funds, Maltese legislation provides for Professional Investor Funds (the local hedge funds product), UCits funds governed in accordance with the applicable EU directives and non-UCits retail funds. Each of these is regulated to a high standard by the local single regulator, the Malta Financial Services Authority (MFSA). The jurisdiction is also flexible with respect to the available legal structures. Funds are typically formed as investment companies with variable share capital (SI-CAVs), but other options are available; investment companies with fixed share capital, partnerships and contractual funds are all permissible. Recently our firm was involved in the launch of the first fund constituted as a unit trust in Malta, a development which underscores the jurisdiction’s ability to cater for relatively unfamiliar structures.

AFM: What are the benefits of domiciling a fund in Malta?

CC: Funds domiciled in Malta enjoy various benefits. The regulator is highly approachable and eager to meet businesses face to face. Professional fees and regulatory costs are highly competitive, particularly by European standards. Local funds are tax neutral at the fund and investor level provided conditions are satisfied. From a reputational point of view there can be no doubt that being domiciled in the EU can provide an important boost. However in my view the key advantage provided by the island is that of flexibility; the regulator’s openness to innovation, the broad range of investment strategies permitted and local professionals’ ability to learn quickly means that the island can host a wide variety of management styles.

AFM: How does Malta differ from other onshore jurisdictions?

CC: The island’s key differentiating factor is that it combines the high regulatory standards of an onshore domicile with the cost-effectiveness and flexibility associated with the offshore sector. Our clients comment favourably on the responsiveness of the regulator and their other professional partners in the country as well as on the island’s low cost. I think this makes Malta particularly attractive for smaller funds. Funds having a NAV of less than, for example, €20m, are unlikely to be feasible in the usual EU funds domiciles, but can generally be run at a profit here.

AFM: What growth has Malta seen in recent years? Did the financial crisis have a significant effect on the domicile’s fund management space?

CC: Malta has come through the recession relatively unscathed. The local banking system proved to be resilient, most likely because local banks shied away from complex securitisations lacking transparency and did not lower their lending. Throughout the initial years of the crisis, the local financial services industry in general, and the fund sector in particular continued to grow at a healthy rate, although of course some funds experienced NAV losses. Now that we seem to have left the worst of the crisis behind us it seems likely that we will see further growth as businesses look for jurisdictions that proved to be ‘safe harbours’ during the crisis.

AFM: What have been the key drivers of new business to regulated funds? What are the emerging trends in Malta?

CC: Investor demand is the prime driver. The crisis has raised investors’ awareness of the importance of working with funds and managers who are well run and well regulated, and the imprimatur of a well-regarded regulator such as the MFSA is a valuable competitive advantage. This ‘flight to regulation’ is something which we see on a daily basis, and not just in the funds sector; investment advisors, insurance captives, principals and brokers, FOREX service providers and various other financial businesses are all setting up in the country.

AFM: Amid a changing regulatory landscape, what challenges will funds domiciled in Malta face in the year ahead and how will these be overcome? Do you see any significant changes or opportunities on the horizon for Malta?

CC: The new AIFM Directive is both the most significant challenge as well as the most exciting opportunity the country has. The Directive will require local funds and their service providers to adapt to various new rules, and will also necessitate the expansion of local custodial infrastructure, and in that sense it is a challenge. On the other hand, thepassporting regime which the Directive introduces means that an EU licence will become a desirable asset for fund managers around the world, and we feel that Malta is perfectly positioned to meet the demand that is bound to arise.

Dr Charles Cassar of CC Malta gives Africa FM his legal perspective on what makes domiciling with Malta such an attractive proposition.
FOCUS ON: Malta

As Malta’s fund industry continues to prosper, Kenneth Farrugia of FinanceMalta talks to Africa FM about raising the region’s profile on the world stage.

Since gaining EU membership in 2004, Malta has arguably become Europe’s most dynamic and fast-growing financial centre. But having earned a reputation as the best kept secret in the Mediterranean, ironically, one of its biggest challenges is to make fund managers and investors fully aware of just how attractive the island is as an onshore domicile for funds.

In order to maintain its competitive edge, the government’s vision is to see the sector’s contribution to GDP double from 12% to 25%, by 2015. To that end, the government has committed to continue to invest in the education, infrastructure and IT sectors because offering world-class, cutting-edge services and facilities is what enables Malta to compete on an international level.

The government is also seeking to further expand international business by increasing the number of double tax treaties and agreements with foreign governments, in order to facilitate more cross-border business out of, and into, Malta and to satisfy the requirements of Malta-based financial institutions and operators seeking to open up new markets. A Memoranda of Understanding, covering various aspects of financial services activities were signed with China and South Africa in 2009, and Malta’s regulator is actively pursuing further agreements, with South American countries such as Brazil, as well as Russia and India being mentioned as areas of particular interest.

FinanceMalta, now in its fourth year of operation, has continued with its promotional drive to strengthen the visibility of Malta as an international financial services centre of repute. The various initiatives organised so far by FinanceMalta clearly reflect our mission to be “the national promotional body vested with the responsibility to position Malta as an international and reputable financial services centre”.

Given its small size and population, Malta works hard to compete on the European stage and stand out from competition. Undoubtedly, the driver of Malta’s strengths is led by the presence of a well-trained and motivated workforce. The industry’s growth is also being driven by other equally important factors, including the presence of a comprehensive legal and regulatory framework, as well as a competitive fiscal regime backed up by more than 50 double tax agreement taxation agreements. I would also add a sophisticated ICT infrastructure, English as an official language, an enviable climate and Malta’s unique strategic location as an EU country with strong Mediterranean links. Moreover, the presence of a single efficient regulator, the Malta Financial Services Authority (MFSA), which has built a reputation for being a meticulous yet accessible supervisory body, ensures that operators are fully compliant with EU regulations which, of course, is pivotal to Malta’s positioning as a reputable, effective, stable and skilled jurisdiction. The single regulator means companies benefit from streamlined procedures and reduced bureaucracy, leading to lower fees and compliance costs and a more consistent interpretation of the rules and legislation.

Over this year, FinanceMalta continued to intensify its promotional drive through the organisation of various promotional initiatives across a number of EU jurisdictions. Moreover, driven by the clearly visible financial services business potential that is emerging in a number of non EU regions, for the first time ever, FinanceMalta has also extended its promotional drive to organise events in markets such as China, Hong Kong, South Africa as well as the Gulf region.

We have found that a reassuringly high percentage of our audiences are already acquainted with the country’s sound reputation, in spite of attempts in various British media, a few years ago, to downplay the jurisdiction’s transparency and portray it as a de facto tax haven. Malta even earned the respect of the OECD when it was one of 40 jurisdictions that committed to transparent and effective exchange of information for tax purposes.

The board and management of Finance-Malta are preparing an ambitious program of initiatives for 2012 to continue to raise Malta’s profile. Its execution, coupled with the continued support of the industry and other partners, should further strengthen the industry’s value proposition, and in turn enhance the industry’s position in the international market place. As Malta promotes itself internationally as the ideal jurisdiction for the re-domiciliation of funds seeking a well-regulated, EU-based location, this sector is being seen as the most likely to expand significantly through 2012.

“Given its small size and population, Malta works hard to compete on the European stage and stand out from competition”