The success being enjoyed by Malta as an international financial services centre is founded on a set of policies that have been strongly influenced by EU membership, the development of a unique regulatory framework, the adoption of the euro and the adoption of the euro and the adoption of the euro. Within this context, Malta’s financial services industry has become a major pillar of the Maltese economy, accounting for a significant share of the country’s GDP. More specifically, a number of factors have contributed to the growth of the industry, including the adoption of the euro, the establishment of a stable legal framework, and the introduction of a range of tax incentives.

The Maltese financial services industry has experienced significant growth in recent years, with the number of firms operating in the sector steadily increasing. This growth has been driven by a range of factors, including the introduction of new and innovative products, the expansion of existing services, and the attraction of new clients. In addition, the industry has benefited from the introduction of a range of support measures, including tax incentives and regulatory reforms.

Overall, the Maltese financial services industry continues to be a key driver of economic growth, and the government remains committed to fostering its development in the years ahead. This commitment is reflected in a range of initiatives aimed at attracting new firms and clients, and at improving the regulatory framework in place.

The Maltese financial services industry is a key component of the country’s economy, and it is expected to continue to play a significant role in driving growth in the years ahead.
The traditional values of providing good service on a timely and value for money basis seems to have been lost by some service providers and jurisdictions. We are in an ever increasing competitive environment where fund administrators and domiciliers try to differentiate their services and products. We feel that the desire and appetite of local service providers to deliver a strong alternative fund solution at an economical price will result in Malta winning an increased share of the market.

What sort of Funds are attracted to Malta?

Currently, the local infrastructure offers an ideal environment for servicing smaller to medium sized Funds promoted by managers interested in controlling costs and getting a more personal service that would not be available in the more established jurisdictions. Malta's low cost infrastructure is particularly attractive to smaller Funds, allowing a more flexible style of management with smaller, focussed boutique style managers with smaller, focused organizations.

If redomiciliation is possible under the laws of the exporting jurisdiction as well as allowable under the laws of the importing jurisdiction then there are cost savings for both manager of the Fund and custodian of the Fund. In Malta, we find that the relationship between the bank and custodian is frequent and of utmost importance.

Why would an administrator like Praxis set up a prime brokerage account?

Communication between banks / custodians and administrators is not limited to matters related to the transmission of instructions for the movement of cash or the generation of paperwork related to the proper recording of transactions. Both custodian and administrator often discuss other matters especially those related to the overall performance of the Fund. These informal discussions will include the “light” monitoring of the investment manager and the overall performance of the portfolio.

Custodian services are an essential part of the investment fund industry as a custodian bank is able to provide banking and trading accounts for fund managers and provide access to administrators to allow them to undertake daily transactions. Sparkasse Bank Malta provides custodian services to a number of Maltese based funds and their administrators and is able to provide a full range of services including banking, execution and custody.

How will the jurisdiction differentiate itself from its competitors?

The industry is collectively focused on providing the range of products and services required to become an international centre of excellence for financial services and Funds. Being a small player means that it can adapt quickly to changes in market conditions and the added advantage of being inside Europe means that it can access the free market as well as benefit from EU protection and certainty in an ever changing environment.

Mr Mifsud says that Sparkasse assigns a team of three or four relationships officers per account to secure a high-level of communication with SICAV clients and their respective administrators. He said: "We believe this contributes greatly to strengthening the level of communication between both entities.”

Maltese administrator, however despite this designation, it is within the nature of a custodian to still carry on with this function albeit in an unofficial manner.

Is Malta now a credible Fund jurisdiction?

It is an interesting question to pose to promoters and lawyers, a blank face followed by a couple of raised eyebrows is no longer the normal response. We believe that Malta still has some reputational ground to make up, when compared to a more traditional EU fund domicile like Luxembourg and Ireland, from a global, political and legislative perspective. Malta is moving forward at a very impressive rate. There is a pool of well qualified professionals who offer a range of skills and products that are comparable and in some cases better than those on offer in the more established jurisdictions.

Will Malta become established on the international fund radar?

More and more Fund professionals are increasingly aware of Malta and what it has to offer. The more competitive and regulated professionals investigate further and find there is real substance to the Malta offering. In my opinion, Malta will become firmly established because there are a range of cooperating forces working to Malta’s advantage. The main driver is the co-ordinated approach by the EU and G20 to encourage promoters to use Malta and what it has to offer. The more aware of Malta and what it has to offer. The more aware of Malta and what it has to offer, the more Malta will achieve in market conditions and the added advantage of one of the world’s most English speaking labour pools. In Malta we found that the relationship between the bank and custodian is frequent and of utmost importance.

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Mr Mifsud said: “Although the actual monitoring role of an investment manager is a task assigned to the custodian (mandatory requirement with UCITS funds) and experienced investor funds in Malta) it is common for both administrator and custodian to compare notes to discuss related matters even when dealing with professional investor funds where the actually monitoring of the Investment Manager is not a mandatory role played by either party. Frequent communication is crucial in mitigating risk for all parties involved and is key in the proper management of a fund.”

Custody services for non-UCITS funds.

There is a difference between the way in which custodian services are provided to UCITS and non-UCITS funds. In a retail fund the underlying assets are usually transferable securities that settle and trade on regulated markets, while private equity assets are usually unlisted shares.

Mr Mifsud said: “This is a different ball game altogether, as the assets of the fund are usually shares in an unlisted entity still needing to file for an Initial Public Offer (IPO) - hence the registration of ownership of each shares is often an issue for the custodian who may or may not wish to appear as the owner of the shares in question. In fact due to these subtleties and more complex issues, it is common to see private equity funds as well as property funds which do not appoint a custodian for their fund.”

He added: “Another major distinction, with private equity, arises from the custodian’s function as monitor of the portfolio. In a typical retail fund, the custodian is duty bound to perform a ‘safekeeping role’ over the management of the portfolio. Furthermore the custodian has an obligation to act as white-whale if necessary in the event that an investment manager repeatedly is in breach of his investment limits as a UCIT or cut of scope if trading, in breach of the objectives laid out in its Offering Memorandum.”

When providing the same service to Professional Investor funds the custodian is not under obligation to monitor the investment manager – however despite this designation, it is within the nature of a custodian to still carry on with this function albeit in an unofficial manner.

The Maltese fund infrastructure

Malta’s legislative framework is robust as well as flexible, catering for the establishment of Non-UCITS retail schemes as well as offering an excellent framework for the establishment of Professional Investor Funds.

As a member of the European Union, the Maltese jurisdiction is being seen as an attractive place to establish funds seeking promotion within the rest of the EU member states. The location of funds to Malta, under the Continuation of Companies Regulations 2002, has been of particular interest to those fund managers/promoters seeking European outlets from a marketing perspective.

Infrastructurally, there is room for growth and this will no doubt occur in view of the massive drive and sheer determination of the local participants in the sector driving Malta to a successful destination for fund managers and financial services in general.

Mr Mifsud says that the business of Sparkasse Bank Malta is currently skewed towards providing services to PF structures or retail non-UCITS funds, but that the credit crisis is beginning to change that.

He said: “Ever since the Credit Crisis we have seen an increase in the requests for UCITS structure. We believe that a contributing factor to this increase has been the change of course this crisis has taken in the flow of institutional money. Institutional money is looking closer at the actual structure and legal framework of a fund prior to making allocations. Until recently, allocations to a fund may have simply been based upon the investment manager’s performance, but we believe the structure will become equally important moving forward.”
Malta’s fund industry is growing rapidly, with the number of funds registered in the jurisdiction increasing every year.

The latest confirmed and published data, collated by consultancy firm EMCS International shows that there were 324 funds registered in Malta at the end of November 2008, up from 300 in July 2007 and 145 funds in November 2006. The total net asset value (NAV) of the funds, at November 2008, totaled EUR 9.3 billion, which is double the EUR 4.8 billion in 2006 and more than nine times the EUR 1 billion held in 2004.

EMCS’s figures confirm that, as at June 30 this year, a total of 112 non-UCITS retail schemes were registered in Malta, while Maduro registered professional investor fund (PIF) stood at 268. There has been a rapid growth of PIFs since 2005 with the number registered rising from 62 in 2005 and 129 in 2007.

Ms. Geraldine Schembri, managing director of EMCS International, says that the financial services sector is expected to contribute 25% of the Island’s GDP by 2010.

She said: “Growth in this sector has been tremendous so far, as figures show a 30% growth in assets per annum in the last few years, with 7,000 people (approximately 4% of the work force) employed in the industry. The targeted approach Ms. Schembri says that Malta is taking a tactical approach and targeting specific market segments where it has a competitive advantage, and so positioning itself as a dynamic financial services centre. She highlights the attraction of the fund industry that are being targeted as growth areas.

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Reasons to redomicile in Malta Fund managers targeting EU investors are increasingly looking at moving away from the traditional offshore jurisdictions towards EU domiciles. The negative image that the current OECD and EU initiative have shed on offshore jurisdictions may impact operators not wishing to be tarnished with an undesirable image.

Ms. Schembri believed that the market tumults and the emergence of high profile fraud cases such as the Madoff Affair have had greater impact on a shift towards onshore regimes as the need for better regulation is felt.

She said: “Anticipated regulatory changes are driving this onshore migration. Of course, Malta is interesting because it marries more regulation and transparency than an offshore jurisdiction, with the right tax balance, shorter timetables and lower costs that can be encountered in certain EU jurisdictions.”

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Ms. Schembri said: “Our service goes beyond the mere preparation of documentation – which is nonetheless an important part of the process to ensure that a licence can be secured in a short timeframe. We would be the principle liaison point between the regulatory authorities and other parties involved. We can also provide accounting, tax and compliance advisory services. At the moment, we are looking at the impact of FATF 2010 on investment regulations.

Reasons to redomicile in Malta

Ms. Schembri says that the PSD applies for buildings in excess of 15% and Malta’s double tax treaty network is useful where the buildings are less, or where the investments are held in non-EU countries.

Assistance with redomiciliation

Setting up a fund from scratch or redomiciling one requires the preparation of documentation in order to secure a licence. EMCS International provides fund formation services with differing levels of support depending on the fund manager in question. The firm has helped operators start form scratch or to just alter their standard documentation to meet local regulatory requirements.

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The AIFM Directive - Offshore EU Managers and UCITS III Funds

These arrangements are forcing offshore EU managers to look at the possibility of setting up and launching absolute return type UCITS III Funds. UCITS III Funds fall outside the scope of the AIFM Directive and accordingly they will not be subject to the three year gate referred to above, notwithstanding that these are managed by regulated offshore EU managers.

The UCITS Directive contemplates the possibility of having a UCITS III Fund managed by a regulated offshore EU manager. Offshore EU managers that are used to managing offshore hedge funds with low investment, borrowing and leverage limits would need to familiarise themselves with the detailed eligible asset requirements and investment, borrowing and leverage limits set out in the UCITS Directive. Notwithstanding the fact that UCITS III Funds are subject to detailed requirements and limits they may prove to be a potentially robust structure for the setting up of funds with detailed absolute return strategies.

When considering whether to set up a UCITS III Fund, promoters should focus on making sure that the structure of the UCITS III Fund is compliant with the UCITS Directive and that the proposed strategy fits within the UCITS requirements. From a structural point of view:

• UCITS III Funds should be set up as a Limited Partnership, Investment Company, Unit Trust or Contractual Fund.

• The Custodian should be based in the same domicile as the UCITS III Fund in the case of UCITS III Funds set up as a Limited Partnership or Investment Company or the same domicile of the UCITS Manager in the case of UCITS III Funds set up as a Unit Trust or Contractual Fund. The latter may delegate this function to an offshore EU custodian.

• Where the Manager is offshore EU, the UCITS III Fund should be set up as a well managed Fund – this means the asset allocation will have to be retained by the UCITS III Fund. Alternatively the offshore EU Manager may manage the UCITS III Fund by means of a delegation from a UCITS Management Company – the latter being the designated manager of the UCITS III Fund.

The promoter should also ensure that the proposed strategy to be followed by the UCITS III Fund is compliant with the UCITS Directive. This entails an understanding of the UCITS eligible assets, investment, borrowing and leverage requirements. The UCITS III Fund may not invest in all asset classes but may only invest in tradable securities and other assets listed in Article 19 of the UCITS Directive – commodity derivatives and certificates and derivatives linked to precious metals are not permissible. Similarly UCITS III Funds are not allowed to physically short sell securities but may take short positions through Contracts for Differences, futures, total return swaps and other financial derivative instruments. Direct investment by UCITS III Funds in hedge funds is also limited to 10% of the total assets of the UCITS III Fund.

If the AIFM Directive goes through as proposed, offshore EU managers wishing to continue marketing their funds to EU based investors will have no option but to consider setting up and launching the UCITS III Fund. The setting up and marketing of UCITS III Funds also implies that Offshore EU Managers will avoid the trouble of having to register in a Member State in terms of the draft AIFM Directive.
The fund industry in Malta is on the rise and the island is proving itself as a major force to be reckoned with in Europe. There are numerous reasons for this success including a modern, developed infrastructure, an educated workforce, an independent financial regulator and membership of the European Union.

Dr. Francis Zammit Dimech is a prominent lawyer in Malta who works closely with investment fund promoters and administrators to help structure investment funds. He believes that a number of factors have combined to make Malta the attractive proposition that it is today. Dr. Zammit Dimech should know since he has been a Member of Malta’s Parliament for over twenty years, of which he served for sixteen years as Government Minister and has therefore helped shape the present policies and legislation that Malta is making use of to promote further growth in the financial services sector.

He said: “Malta’s time zone is one hour ahead of GMT and six hours ahead of EST, English is the language of business in Malta and also the second official language – that means that all our laws and regulations are also published in English and are accessible on line. The workforce in Malta is well educated and professionals, such as accountants and lawyers, are highly trained and specialised in this field.”

He added: “The proactive approach of the independent regulator, the Malta Financial Services Authority, reassures promoters that they are setting up their structures in a safe jurisdiction. The Authority requests the highest standards of probity and honesty. Furthermore, there is a close degree of interaction between promoters and the regulator. In fact, the regulator meets everyone who wants to set up or do business in Malta, permitting flexibility and, at the same time, maintaining a strong degree of regulation.”

Dr. Zammit says that the MFSA has proven itself as a reliable and proactive financial services regulator that has placed particular importance on the highly successful professional investor fund (PIF) vehicle.

He said: “The regulator has expressed its intention to see the financial industry account for 25% of GDP in the future. As a consequence, I would not be surprised to see the MFSA, in conjunction with FinanceMalta, engage in promoting it even further.”

Malta’s regulatory system has proven to be resilient, even through the recent economic crisis that has hit banks and other financial institutions in various jurisdictions but not in Malta.

Dr. Zammit added: “That provides for a reputable track record of which Malta can only be proud, which coupled with a hands on deck and efficient one stop service that is offered through the Malta Financial Services Authority makes operating in Malta that much smoother and totally reliable. We pride ourselves in the quality and standards of excellence that the country stands for.

THE PROACTIVE APPROACH OF THE INDEPENDENT REGULATOR, THE MALTA FINANCIAL SERVICES AUTHORITY, REASSURES PROMOTERS THAT THEY ARE SETTING UP THEIR STRUCTURES IN A SAFE JURISDICTION

The Professional Investor Fund (PIF) The professional investor fund is one of the main reasons why Malta’s fund industry has grown so quickly and gained a reputation within Europe. There were 268 PIFs registered in Malta as of June 2009, an increase from 62 in 2005.

The flexibility of the fund vehicle appears to be the reason for its popularity, allowing many different promoters or investors to benefit.

Dr. Zammit says that the flexibility of diverse vehicles, the investment thresholds and the lack of undue legal burdens are all good points, as are the lack of residence issues.

He said: “PIFs may be set up in the form of diverse corporate vehicles. These include open-ended and close-ended corporate entities, trusts and limited partnerships. The Maltese PIF regime provides for three types of funds: those targeting Extraordinary Investors where the minimum investment threshold is EUR 7,500,000; those targeting Qualifying Investors where the minimum investment threshold is EUR 750,000; and those targeting Experienced Investors where the minimum investment threshold is EUR 15,000.”

He added: “Since professional investor funds are designed for sophisticated investors and not for the general public, they are freed from several burdens designed for sophisticated investors and not for the general public and are not subject to investment restrictions, nor are they subject to restrictions on eligibility of assets. These investment and borrowing restrictions prohibit fund managers from using more complex investment and leverage strategies and such UCITS are generally used for retail funds marketed to the general public and are not subject to investor eligibility criteria/entry limits similar to those present for non-PIF vehicles.

Malta legislation also provides for the setting up of Professional Investor Funds (PIFs) which are essentially non-retail funds targeted at financially literate, high net worth investors and as such are not regulated as UCITS funds. Hedge funds, private equity funds and property funds are normally structured as PIFs. Legislation provides for various categories of PIFs which are essentially non-retail funds targeted at financially literate, high net worth investors and as such are not regulated as UCITS funds. Hedge funds, private equity funds and property funds are normally structured as PIFs. Legislation provides for various categories of PIFs which are essentially non-retail funds targeted at financially literate, high net worth investors and as such are not regulated as UCITS funds.

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The Malta Funds Authority requests the highest standards of probity and honesty and the Authority has placed particular importance on constructing a framework that encompasses the highest degree of regulation. The Maltese government has recently confirmed that Malta is preparing legislation to allow Sharia-compliant banking and other financial services.

Further, the fund manager will ensure that the fund is run in accordance with the licensed fund rules and will ensure that the fund manager is registered for the purposes of AML.

Malta offers a favourable European onshore location for structuring and servicing retail and non-retail funds. Malta legal system. MSF will advise on the proposed investment vehicles for a PIF on a case by case basis.

Furthermore, prior to setting up a new licence, the fund manager will ensure that it is run in accordance with the licensing rules of the competent authority and that the fund manager is registered for the purposes of AML.

In the case of funds investing in immovable property and/or investment fund businesses, opt for a re-domiciliation process. Malta will undertake the licensing process in a straight-forward procedure and provided certain conditions are satisfied. From a licensing perspective, the fund would undertake the licensing process in a straight-forward procedure and provided certain conditions are satisfied. This is an important step towards achieving a successful outcome.

The Maltese government has recently confirmed that Malta is preparing legislation to allow Sharia-compliant banking and other financial services. The MFSA has however confirmed that Sharia-compliant funds may be set up even under the present legislation. The MFSA has confirmed that, currently, Islamic Funds, Shari’ah-compliant Funds and Islamic Funds. Sharia-Compliant Equity Funds can be set up as Malta UCITS schemes, Sharia-compliant equity funds. As may be seen from the above, Malta provides a very efficient and flexible regulatory regime for investment funds, characteristics which continue to contribute to its ever-growing reputation as a European fund jurisdiction.
Malta’s economy has grown significantly in strength during the last decade and it is a modern, prosperous economy with a well-developed infrastructure.

Malta ranked 32nd in the 2009 World Economic Forum’s Global Competitiveness Report, out of 134 countries, ahead of jurisdictions such as Brazil, Russia, Turkey and Greece. Malta rates 33rd in the world for its institutions and 38th for its infrastructure. More significantly, Malta ranked 13th in the world for the sophistication of its financial markets, ranking 19th for the restriction of its capital flows and 13th for the soundness of its financial institutions. These figures like this explain why Malta is ambitious about expanding its financial sector to be responsible for 25% of its GDP by 2015. It currently accounts for around 5% of a total GDP of around €6 billion, which equates to about €720 million. It has grown from 1% to 12% inside the last 14 years. Andrew Mandra, president of the Institute of Financial Services Practitioners (IFSP), says that Malta really took off as a financial services centre after May 2004, when it joined the EU. He said: “There are three main pillars to Malta’s regulated financial business, namely banking, insurance and funds. The funds sector is the fastest growing, followed by insurance, then banking.” He believes that issuers such as passporting rights in Europe and the fact that English is the main business language in Malta has helped to move the financial services industry forward. He said: “Malta’s onshore status means we don’t compete with offshore jurisdictions, as an EU member our competition is with other European states, but the cost structures in Malta are much lower. There is also a bit of geography that can play to our advantage, as more and more companies from further south in the Mediterranean are not in the European Union following the financial crisis in financial services. Malta has various double tax agreements with the Arab world that come in helpful for financial services business.”

Passporting and the European Advantage

Malta’s membership as a fully-fledged EU member state since 2004 has had an important impact on the jurisdiction’s attractiveness, particularly ‘passporting’, or the ability to offer financial products based in one European country into another. Ramona Piscopo, tax lawyer at Loyens & Loeff, says that passporting is an important aspect of the EU membership that has boosted Malta’s attractiveness. She said: “Passporting regulations offer an additional element of flexibility and the “European Union” peace of mind that comes with it allows Malta to be at par with other European jurisdictions and ahead of non-EU jurisdictions that do not have access to passporting rights.” Simon Tortell, partner at Simon Tortell Associates, says that he has been particularly active in the passporting of investment funds into and from Malta. He said: “Our clients are either Maltese-based UCITS funds, licensed in Malta and wishing to distribute their units across the European Union, or a UCITS established in other EU Member States, who wish to make their units available in Malta through the fast-track passporting process. More recently, we have also received a number of queries from offshore private investor funds wishing to re-domestic to Malta and convert to a Malta-based UCITS and thereby take advantage of the passporting regime.”

He added: “On the insurance and banking side, we have also advised international clients to set up a regulated operation in Malta as a hub for the passporting of their products and services across the EU.”

Laragh Cassar, senior associate with law firm Camilleri Preziosi, has been actively involved in providing legal advice and services to European banking, insurance and fund businesses intending to passport their services to Malta. She said: “Our services have ranged from providing legal advice as to the passporting requirements (and indeed whether passporting is at all necessary), to the actual passporting process. Furthermore, we use generally retained by the European exchange following the passporting process has been completed with a view to providing legal advice on ongoing legal issues arising from their operations in Malta.”

Taxation system

Under the Maltese imputation tax system companies in Malta are taxed at 35% from company profits MaltaCo’s, (assuming that $100 is subject to tax). The advantage of this is that the company is taxed on the amount of dividends that it pays to the shareholders and the shareholder is subject to tax on the dividend received as well. The MaltaCo’s shareholders ensures that there is also the dividend paid is taxed at a particular jurisdiction has with other relevant jurisdictions.

She adds: “Furthermore, dividends, interest and royalties may also benefit from the EU Parent-Subsidiary Directive or the EU Interest and Royalties Directive. Double tax relief may come in the form of treaty relief to which Malta has contracted a wide array of OECD based treaties as well as unilateral relief and a flat rate foreign tax credit resulting from local legislation.”

Ramona Piscopo believes that Malta is regarded very highly as a holding jurisdiction because of a combination of the participation exemption and zero withholding tax.

She said: “Participation exemption means that, upon certain conditions being met, dividends and capital gains received by a Malta company from its participation in another (non-Maltese) company are exempt from tax in Malta. Zero withholding tax on dividends distributed to Malta’s shareholders ensures that there is also no tax suffered by those shareholders in Malta.”

She added: “The fact that Malta has never had a system of withholding tax on dividends distributed to foreign shareholders and thus does not have to depend on treaties or other agreements, such as the Parent-Subsidiary Directive, allows a much greater flexibility than other jurisdictions as a holding jurisdiction. It is important to ensure that any entity used in a structure has sufficient physical and economic substance.”

With regard to investment funds, tax differs depending on whether the fund is prescribed or non-prescribed. A fund is non-prescribed if it has at least 85% of its total assets situated outside Malta.

Ms Cassar, from Camilleri Preziosi, added: “Other than for income from immovable property situated in Malta, which is subject to thirty-five percent (35%) tax, any income payable to the non-prescribed fund including local investment income is exempt from tax irrespective of the vehicle used for the fund structure. Any dividends received from Maltese and foreign companies are not subject to further tax in the hands of non-prescribed funds and capital gains derived from the disposal by the collective investment scheme of securities or immovable assets in other schemes are not subject to tax.”

The Malta Stock Exchange

Malta’s stock exchange is a very useful component of its offering to financial services companies considering using the jurisdiction as a domicile. The exchange is able to help Maltese domiciled funds by creating a market for equities or debt securities, it can also facilitate a market for funds by listing units. Simon Tortell says he has been involved in a number of equity and bond listings on the Malta Stock Exchange providing advice on the structuring of these issues and reviewing offering documents and private placement agreements.

He has also provided extensive advice to a closed-ended non-UCITS platforms wishing to offer its units across the EU through Malta and achieve a secondary market for its units via a listing on the Malta Stock Exchange.

He said: “The reputation of the Malta Stock Exchange, together with the transparency and effect of the MFSA Listing Rules and the MSE Bye-Laws and the contained listing costs are the main attractions of our listing regime.”

Camilleri Preziosi has a well developed capital markets practice in Malta that has taken to market 61% of all equity securities and 68% of all debt securities currently listed on the Malta Stock Exchange.

Ms Cassar said: “This market share is expected to increase due to a further equity issue and three debt securities issue in the pipeline targeting Q1 2010. During the past 12 months we have just completed the bond issue by Melita Capital Ltd; a bond issue by Mizzi Organisation Finance p.l.c.”

The increased scrutiny of the alternative investment fund industry in the wake of the global economic crisis has worked to the advantage of well-regulated jurisdictions such as Malta. The OECD’s much publicised white and grey lists of countries around the world has had a negative effect on many offshore jurisdictions that have, historically, offered low levels of regulation, oversight and transparency to financial services businesses. The potential of offering residency and dual domicile investment funds, or insurance companies, in jurisdictions that are white-listed and well regarded by international bodies and therefore potential investors.

Ramona Piscopo says that the relationship that a particular jurisdiction has with other relevant jurisdictions is vital when setting up a corporate structure, something that the “relationship” impacts the bottom-line tax suffered.

She said: “Malta has received the OECD’s confirmation of Cooperation in Exchange of Information matters. The recent updates on countries cooperating in Exchange of Information issued by the OECD saw Malta constantly retaining its position on the white-list.”

She added: “By cooperating with internationally agreed standards and norms, “white-listed” jurisdictions benefit from the additional confidence they are afforded. For example if a U.K resident in Country A owns shares in B Ltd resident in Country B which is a blacklisted jurisdiction, Country A’s anti-abuse provisions could provide that dividends received from B Ltd constitute taxable income in Country A. If Country B was a white-listed jurisdiction and Country A’s anti-abuse provisions proved insufficient, it would result in a lower tax burden on the structure.”

Ms Cassar agrees that the introduction of closer regulatory controls could be beneficial, both specifically within the investment management industry and generally for Malta as a financial services centre.

She does sound a note of caution however and suggests that the introduction of the current draft of the European AIFM Directive requires further thought and improvement.

She said: “Closer regulation, as long as it is properly drafted and thought out, ought to provide a good complement to the attractive features offered by Malta.”

We believe that the introduction of a more stringent regulatory framework for Alternative Investment Funds and Anglers will result in a migration of these investment funds to onshore domiciled investment funds, or insurance companies, in jurisdictions that are white-listed and well regarded by international bodies and therefore potential investors.

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