Malta

Malta’s strengths lie in its EU-based regulatory regime, combined with the approachability of the Malta Financial Services Authority (MFSA), which engages with the industry and prospective applicants and seeks to establish communication and dialogue with stakeholders.

The domicile has also developed an innovative product structuring framework, such as protected cell companies, reinsurance special purpose vehicles and insurance securitisation cell legislation, which it manages within strong regulatory parameters.

Captive insurance and captive reinsurance undertakings, as defined in Articles 13(2) and 13(5) of Solvency II, have been transposed into Malta’s Insurance Business Act, meaning they are authorised undertakings in the domicile. Captive insurers and captive reinsurers must also adhere to the Insurance Business (Captive Insurance Undertakings and Captive Reinsurance Undertakings) Regulations of 2003 (LN 334 of 2003).

In particular, the regulations provide that certain provisions of the act do not apply to a captive insurer or captive reinsurer due to the nature of the business.

These include an exemption from the requirement to provide a statutory notice to a policyholder, advertising requirements and exemption from the requirement to contribute to the Protection and Compensation Fund in the case of insolvency of an undertaking engaged in insurance. All other prudential requirements under the act that are applicable to insurance undertakings are also applicable to captives.

Prospective applicants need to submit an application according to the act. An application for authorisation is processed within a statutory period of three months of receiving a properly completed application form together with the requisite documentation.

The MFSA aims to make the application process an efficient and manageable one. It is an interactive process involving contact and consultation between applicant and the MFSA prior to and after an application is formally submitted. In this context, it is recommended that the promoters hold a preliminary meeting with the MFSA to outline their proposal. This meeting should be held well in advance of submitting an application for authorisation.

More information on captive insurance in Malta can be found at www.mfsa.com.mt.
Malta is host to a myriad of captive re/insurance companies, protected cell companies and cells that have come to enjoy the domicile’s stable regulatory environment and EU membership benefits. Malta offers re/insurers and cells:

- **European Union Membership** - Malta’s status as an EU member allows companies and cells the ability to passport their services throughout the European Union and EEA states. Maltese insurance law and regulation implements all relevant EU directives.

- **Redomiciliation Legislation** - Companies established in other countries can seamlessly transfer to Malta without any break in their corporate existence.

- **Protected Cell Legislation** - Protected Cell Companies can be incorporated in Malta, enabling cell promoters to write insurance through a cell. The law ensures proper protection and insulation of cell assets and liabilities from those of other protected cells and the core of the protected cell company.

- **A Stable Regulatory Framework** - The Malta Financial Services Authority (MFSA) is reputed to be “firm but flexible” - encouraging discussion with promoters at all stages of an application process and also on an ongoing basis.

- **Extensive Double Taxation Treaty Network** - Malta has around 70 tax treaties with various EU and non EU countries.