investor guide series
2013-2014 edition

in association with

Trusts & Foundations
**Certainty and security**

Malta, a civil law country within the European Union, has created a unique ‘best of both’ vehicle to be able to offer the same benefits of the Anglo-Saxon trust in the context of a more familiar legal terrain for people from other civil law countries.

The Maltese Trust and Trustees Act of 2005 brought this streamlined and simplified trust regime into force and the Malta Trust now offers greater flexibility, high standards of certainty and a closely regulated environment for the set-up of the trust. A key feature of the Malta trust is the option to choose to be governed by the laws or be adjudged by the judiciary of another jurisdiction.

Malta’s competitive set-up and management costs are proving attractive to both corporate entities and high net worth individuals. The sector is served by over 100 companies now licensed to offer trust and trustee services in Malta, and the island has a strong contingent of multilingual, skilled professionals who are available to provide comprehensive administration and back office services, as well as a STEP branch that was formed in 2006.

Flexible, effective and familiar...a Malta trust offers both certainty and security.

more information on: www.financemalta.org
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CountryProfiler would like to thank the Office of the Prime Minister, Ministry of Finance, the Economy and Investment, FinanceMalta, Malta Financial Services Authority, the Association of Insurance Brokers, the Malta Bankers’ Association, the Malta Funds Industry Association, the Malta Insurance Association, the Malta Insurance Management Association, the Institute of Financial Services Practitioners, the Society of Trust and Estate Practitioners, the Malta Association for Retirement Scheme Practitioners and in particular Mr. James Bonello, Mr. Kenneth Farrugia, Dr. Mariana Goç, Dr. Priscilla Melouf Parker, Mr. Malcolm Becker, Dr. Rosanne Bonnici, Dr. Matthew Brincat and Dr. Chris Cachia for their support and assistance.
FinanceMalta, a non-profit public private initiative, was formally set up on the 23rd May 2007 with the scope of promoting Malta's international financial centre, both within, as well as outside, its shores. It brings together, and harnesses, the resources of the industry and government, to ensure that Malta maintains a modern and effective legal, regulatory and fiscal framework in which the financial services sector can continue to grow and prosper. The founding associations are: the Malta Funds Industry Association, the College of Stockbrokers, the Malta Bankers’ Association, the Malta Insurance Association, the Association of Insurance Brokers, and the Institute of Financial Services Practitioners. These associations, together with the Malta Insurance Management Association which is also affiliated with FinanceMalta, represent the financial services industry in Malta.

FinanceMalta, Garrison Chapel, Castille Place, Valletta VLT 1063 • Malta • Tel: +356 2122 4525

The Malta Financial Services Authority (MFSA) is the single licensing and supervisory authority for all financial services activity. The Authority is an autonomous public institution set up by law. The sector overseen by the MFSA includes banks, investment firms, insurance companies and financial intermediaries who provide a wide range of products and services on the domestic and international markets. The regulation of the Malta Stock Exchange also falls under the responsibility of the MFSA. The MFSA is further responsible for consumer education and consumer protection in the financial services sector. It also manages Malta’s Registry of Companies.

Malta Financial Services Authority (MFSA) Chairman: Joseph Bannister
Notable Road, Attard  Attard • Malta
Tel: (+356) 2144 1155 • Fax: (+356) 2144 1188
Email: communications@mfisa.com.mt • Website: www.mfisa.com.mt
Located in the centre of the Mediterranean, two to three hours flight time from most European centres, the Maltese government and the industry are committed to putting Malta on the map as the foremost centre for international financial services in the Euro-Med region.

- **Trust Sector**
  - **Trust Legislation:** Trusts and Trustees Act
  - **Foundation Legislation:** Second Schedule to the Maltese Civil Code (Chapter 16 of the Laws of Malta)

**62 Double Taxation Treaties**

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**Finance Centre**

- **7 DAYS**
  - Time to start a business
- **IFRS**
  - Accounting Standards

**Trust & Foundation Domicile at a Glance**

All figures are quoted as at December 2012 unless otherwise indicated.

- **Trust Legislation:** Trusts and Trustees Act
- **Foundation Legislation:** Second Schedule to the Maltese Civil Code (Chapter 16 of the Laws of Malta)
Malta, a small island state at the heart of the Mediterranean, has quietly emerged as one of Europe’s most stable and innovative finance domiciles. Malta’s decisions to join the European Union in 2004 and the eurozone in 2008 have proved pivotal to its development as a major finance and business centre. Today Malta has strong banking, insurance, fund and wealth management sectors that have attracted investment from the world’s leading financial institutions, blue-chip multinationals and high-net-worth individuals.

**Country**

**An English-speaking nation**

With a history stretching back thousands of years, Malta is the European Union’s smallest member state. However, the country’s size is no barrier and Malta has positioned itself as a hub for international business.

**Depth and breadth.** As a small nation, flexibility, innovation, competitiveness and adaptability have been elements of Malta’s development since the country began to fend for itself after independence from Britain in 1964. In the past few years, Malta has attracted record volumes of new business to its shores. Financial services have been identified as a key priority area for economic growth.

**Easy communication.** Inherited from the British, English is to this day the joint official language with Maltese, and is universally spoken and written. It is the language of legislation, education and business.

**Central base.** Malta’s capital city, Valletta, built by the Knights of St John in the 1500’s, is the main business centre and the administrative heart of the country.

**Full parliamentary support.** Malta’s political leaders have a pro-business attitude and are committed to further assisting the finance sector to grow and encouraging foreign investors to establish operations in Malta.

**Knowledge Economy**

**One of Europe’s top performers**

In recent years, Malta has been ranked among the strongest EU economies in terms of GDP growth. Services underpin the Maltese economy, accounting for 75 per cent of GDP, while industry accounts for 23 per cent and agriculture for just 2 per cent.

**A holistic vision.** Malta is establishing itself as the number one knowledge-based economy in the Mediterranean region. ICT, life sciences, education and financial services are only some of the areas the country is targeting and which have successfully reshaped Malta’s economic landscape in recent years.

**Last in, first out.** The country’s economy was one of the least affected by the recent financial crisis and experienced one of the shortest recession periods in the EU.

**Recording growth.** Unlike many other European countries, Malta has been recording economic growth in the past years. After the economy contracted in 2009, Malta was able to post GDP growth of 3.7 per cent in 2010 and of 2.1 per cent in 2011. The country is expected to end 2012 with a GDP growth of 1.2 per cent which is predicted to rise to 1.6 per cent in 2013. At 6.9 per cent, Malta has one of the lowest unemployment rates in Europe. Unemployment in the EU stood at 10.7 per cent in November 2012.

**Aiming for more.** The development of the finance sector is part of long-term economic plans to increase its contribution to GDP from the current 12 per cent to 25 per cent in the coming years.
Finance Centre
A fully-fledged domicile
Malta’s resilience in the face of financial turmoil, economic recession and debt crisis has strengthened its position as a global financial services centre. Former niche industries have become pillars of the country’s economy.

Prepared for cross-border interaction. The country’s fund industry is booming as more and more fund managers recognise the island’s potential to serve as a springboard into Europe. The Net Asset Value of funds administered in Malta just broke the 10 billion euro mark.

Setting an example. The country’s banking system now consists of Maltese and international banks and is one of the soundest in the world. Bank of Valletta, the largest financial services provider on the island, passed the 2012 EU stress test with a strong capital buffer.

Growing wealth management location. The availability of a wide range of investment vehicles, among them also trusts and foundations, has made Malta a natural hub for wealth management and family offices in the region.

International expansion. From 2004, the insurance sector grew from 8 insurance companies servicing the local market to more than 15 insurance companies with business in other countries.

Competitiveness
A credible challenger
Malta regularly receives high rankings in benchmarking reports. In 2011, the European Commission viewed the competitiveness of Malta’s economy in terms of labour productivity as above average in an EU-wide comparison, while the country has improved its ranking in the Global Competitiveness Report 2012-2013 of the World Economic Forum, climbing from 54th place to 47th (out of 144 countries).

Tier 1 reputation. As an EU and eurozone member, Malta offers a regulatory framework that is fully harmonised with EU and OECD rules, yet offers a sophisticated and flexible platform for the financial services industry.

High performance. While global finance centres around the world struggled, Malta’s finance sector not only withstood the effects of the recent economic and financial downturn but posted year-on-year growth. Despite the international turmoil, Malta’s finance sector has expanded between 20 and 30 per cent annually.

Low risk environment. Malta is a European Union member and has a long-established and strong democratic tradition. Economic policies are liberal and the country is committed to an open business environment.

Quick start up time. A company can be incorporated in a couple of days. Malta’s regulator, the MFSA, has set timeframes for the approval of licence applications for financial services such as investment funds or insurance vehicles, with the option of fast-track applications for certain vehicles and service providers.

Market Access
A region of opportunities
Situated within two to three hours direct flight time from Europe’s major cities, EU membership and with it, the subsequent introduction of passporting rights, has accelerated growth in all sectors of Malta’s finance centre.

Wide range of market places. Malta offers instant access to an internal market of over 500 million people encompassing the 27 EU economies.

Good relationships. Malta has excellent relationships with its neighbouring Mediterranean countries and due to its geographic location, Malta is also an ideal stepping stone to the emerging markets of North Africa and the Middle East.

Post-crisis order. In a changing regulatory landscape with tighter requirements, Malta offers a safe EU location with a firm but flexible regulatory framework.

Follow the sun. Malta lies in a convenient time zone for doing business across the world: one hour ahead of GMT, meaning office hours coincide with Asia in the morning, Europe throughout the day and the US in the afternoon.

Infrastructure
A platform for business
Substantial investments in infrastructure and telecoms networks have created a highly sophisticated business environment.

Cutting-edge systems. Malta has overcome its geographical limitations by building up a state-of-the-art telecoms infrastructure. International connectivity is ensured by two satellite stations and four submarine fibre-optic links to mainland Europe.

Growing industry cluster. Malta’s finance industry is today made up of about 600 regulated entities, up from 180 at the end of 2004. In addition, around 11,500 other non-regulated entities operate in Malta and service international clients, offering legal and other support services.

Connected Marketplace. Malta’s excellent air and sea infrastructure and long-standing trade links with major ports in Europe, North Africa and Asia provide for a network of worldwide connections.

Affordable office space. Office space can be found all over Malta and rents are reasonable.
The market player and the specific set-up.

In many areas on the experience and knowledge of... The right tools.

Tailored approach. The level of regulation depends in many areas on the experience and knowledge of the market player and the specific set-up.

Working in partnership. The regulatory framework is recognized as serious, while one of Malta’s most appreciated advantages is the accessibility of the MFSA, which establishes constructive working relationships with companies investing in Malta.

Efficient regulator. All financial services fall under one regulator, the Malta Financial Services Authority (MFSA). Companies benefit from streamlined procedures, reduced bureaucracy and lower regulatory fees.

The regulatory framework is in line with EU law and built on best practices from other finance centres. It caters for the regulation of investment funds, banking and insurance business, as well as investment service providers and trustees.

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The right tools. The possibility of re-domiciling companies into and out of Malta provides the option of preserving the continuity of a company’s legacy, reputation and financial track-record.

The highest standards of living at the heart of the Mediterranean. Lying at the centre of the Mediterranean Sea, between Europe and North Africa, Malta offers a refreshing change from other chaotic and high-cost finance centres.

Sun and sea. As a small Mediterranean island, Malta offers unrivalled, easy access to beautiful beaches where the sea and the sun can be enjoyed in equal measure.

So much more. The island boasts a diverse range of shopping, cultural and leisure activities in addition to well-equipped public and private hospitals and clinics. Malta’s educational system is excellent, and all personal needs – from private banking to tax planning – are catered for.

Relaxed atmosphere. Malta is renowned for its well-balanced work life rhythm. The country’s small size – it takes just 45 minutes to cross Malta – reduces commuting time and increases leisure time. With a very low crime rate, the country is also a safe place for families to live.

Exclusive living. The property market features a variety of top-of-the-range homes, including apartments, townhouses and villas, as well as excellent office space at reasonable rents.

Cost is one of the key drivers behind today’s business decisions. When compared to mainland Europe, Malta offers significant cost-advantages as a finance centre, making it a competitive alternative.

Companies in Malta can benefit from the country’s extensive network of double taxation treaties as well as from a number of business promotional incentives.

Legal and accounting fees are lower than in most other European jurisdictions, as are other operational costs and salaries which are 20-30 per cent lower than those prevailing in the more established centres.

Part of global networks. Most of the country’s law firms are affiliated to international networks and many lawyers have post-graduate degrees in finance. Together with the big four accountancy firms, as well as many other accountancy and auditing practices, they service international clients.

Established service providers. Malta’s professional service firms have been at the forefront of the finance centre’s growth. At the same time many consultants and advisors have also gained experience overseas.

Employees and service companies are quick, efficient and have developed expertise in niche areas such as captive insurance, funds, trusts and wealth management.

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International Excellence. Employees and service companies are quick, efficient and have developed expertise in niche areas such as captive insurance, funds, trusts and wealth management.

60 per cent of Maltese students continue to further education. Such a high proportion of Maltese students continue to further education.

Captive insurance, funds, trusts and wealth management.

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International Rankings

Pool of support

Malta’s workforce is multilingual and highly educated. Employment in the financial service sector has doubled during the period 2004 to 2012. Some 10,000 people are now employed in the sector.

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Malta has established itself as a reputable trust jurisdiction and the number of authorised trustees is increasing year by year. Among the companies offering their services in Malta one finds not only many of the leading firms of the sector, but also a large number of smaller firms, local and foreign, that assist with the establishment and administration of trusts and foundations in Malta.

Ongoing market volatility is a constant reminder of how important it is to protect or enhance the value of assets. From tax to succession planning, and the holding of company shares to gifting property to children, Malta trusts and foundations are the ideal financial instrument for those seeking solutions to their wealth management requirements.

With almost 130 Maltese and international fiduciary companies licensed to offer trust and trustee services on the island, including organisations such as Mazitland Group and Bentley Trust, this is a growing segment of the financial services offered by Malta, and one that is expected to continue expanding rapidly.

### Administrators of Private Foundations in terms of Article 4(1)(2)b of the Trusts and Trustees Act

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### Why Malta

- **Source:** Malta Financial Services Authority, September 2012
- **Authorisations in terms of the Trusts and Trustees Act**
- **Expected to continue expanding rapidly.**
- **Trust, this is a growing segment of the financial services offered by Malta, and one that is expected to continue expanding rapidly.**
- **Trusts and Foundations in Malta**
- **One of the few civil law jurisdictions that has developed its own domestic trust law.**
- **Recognition of trusts set up under foreign laws.**
- **Offering the set-up of domestic trusts and foundations in English.**
- **EU and eurozone location.**
- **High professional standards with many accountants, bankers, lawyers and investment advisors holding overseas qualifications and having overseas experience.**
- **Fast-track authorisation for trustees licensed in other (approved) jurisdictions.**
- **English-speaking country with a pro-business government.**
A Leading Domicile for Asset Protection

Key Reasons for Malta’s Success

Malta is one of the few jurisdictions that cater for both trusts and foundations. While trusts are peculiar to systems of law based on common law and are not generally found in civil law countries, Malta, a civil law country, is an exception to this rule. Malta trusts and foundations benefit from a number of advantages when compared to other trust jurisdictions and the country’s lower set-up and management costs are proving attractive to both corporate entities and high-net-worth individuals.

One Jurisdiction, Two Solutions

Skilfully combining all the features of the Anglo-Saxon trust concept within a civil law framework, the Malta trust is an effective and reliable vehicle that provides both certainty and security. The Malta trust offers a useful and practical vehicle that gives settlors the peace of mind that comes with a highly regulated, EU environment, while remaining faithful to the original concept of a trust. With legislation in place to regulate the setting up of foundations, through which founders are able to maintain a level of control on the direction of the estate, Malta offers an additional instrument for wealth management, tax and succession planning. While there are a number of similarities between trusts and foundations, there are also substantial distinctions. With both concepts firmly established, Malta is ideally placed to answer the most diverse of needs.

Offering Protection and Security

Offering a high level of protection and regulation, the advantages of locating a trust or a foundation in Malta are numerous. They include Malta’s specific legislation that creates a highly regulated environment offering a high degree of assurance. In Malta trustees and foundation administrators have to be authorised by the Malta Financial Services Authority (MFSA), and are highly regulated, with audits taking place at least once a year. More than 120 companies are currently authorised to provide these services. With its service-driven culture, the MFSA has gained a reputation as an effective and responsive regulator of the industry.

Value for Money

Malta offers another key attraction to people choosing a jurisdiction to set up a trust or a foundation: significantly lower set-up and administrative costs. On average, setting up a trust in Switzerland will cost a minimum of 5,000 euro; in Malta the cost of setting up a fully-fledged trust is around 1,500 euro. Professional fees in Malta, including trust management fees, legal fees and audit fees, are also significantly lower than in other jurisdictions, while the country’s professional service providers enjoy an excellent reputation internationally.

Differences between Malta Trusts and Foundations

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<th>Trusts</th>
<th>Foundations</th>
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<tr>
<td>Do not have a separate legal personality</td>
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<td>Defined in terms of relationship</td>
<td>Defined in terms of the assets making up the foundation</td>
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<tr>
<td>Trustee is the legal owner of the assets</td>
<td>Trustee is the legal owner of its own assets</td>
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</table>

similar qualities + specific characteristics = serving particular needs
Malta offers a highly-regulated, well-respected, sophisticated EU environment and the country is fast becoming the wealth management jurisdiction of choice for people from across the world. Historically, trusts or foundations have been seen as instruments designed to maintain discretion and have been associated with tax avoidance structures. A Malta trust or foundation offers security, assurance and flexibility in an EU regulated environment, while maintaining the principle of confidentiality that settlors expect. Internationally, the island’s reputation as a location to establish and manage private and commercial trusts is growing significantly as the demand for secure solutions to wealth management issues increases.

Malta’s legislation also caters for the establishment of private or purpose foundations, which continental Europeans generally prefer to trusts because they allow the founder to continue to maintain a level of control on the direction of the estate. Unlike trusts, foundations have a legal personality and the foundation itself becomes the legal owner of the foundation estate. Based on Maltese company law principles and Italian and French civil law provisions, Maltese foundations require the appointment of administrators, who are responsible for the administration of the foundation’s assets, and these are regulated under the Maltese Trusts and Trustees Act.

While trusts have been recognised in Malta since the 1980s, a key instrument in the attraction of wealth management activities to Malta is the Maltese Trusts and Trustees Act which introduced domestic trusts and came into force in January 2005. This has helped to transform Malta into a major trust jurisdiction. The Act created a streamlined and simplified trust regime, and made Malta much more attractive to international clients by offering greater flexibility and high standards of certainty. The legal framework surrounding Malta trusts allows for the creation of customised solutions for each individual trust set-up.

The trust law identifies a number of commercial scenarios within which the use of trusts would attract more favourable treatment. These include security trusts, unit trusts or collective investment schemes and securitisation, amongst others. One of the great attractions of the trust for the transaction planner designing a business deal is the convenience of being able to absorb into the ground rules for the business deal those fundamental principles of fiduciary law that protect trust beneficiaries of all sorts. These attractions have made the trust a reputable alternative to other devices, such as contract and incorporation, whenever the relationship to be established is too delicate or too novel.
Regulation & Oversight

Malta’s legislation on trusts and foundations has developed over the past decades. Today the framework gives a high degree of responsibility to the licensed trustees and foundation administrators in order to ensure that trusts and foundations under their administration are compliant with the law.

**Legal Framework**

The Maltese legal system boasts a unique blend of common law and civil law ingredients, clearly illustrated by the presence of both trusts and foundations.

- The setting up of trusts in Malta is regulated by the Trusts and Trustees Act. The Act provides for the creation of trusts and authorisation and supervision of trustees by the Malta Financial Services Authority (MFSA). The Act incorporates within its provisions the Hague Convention on the Law Applicable to Trusts and on their Administration.
- While foundations have been recognised and regulated in Malta for almost 200 years through Maltese case law and doctrinal writings, in 2007 Malta enacted specific legislation to clearly define their legal framework. The law regulating foundations is today found in Act XII of 2007 which introduced the Second Schedule to the Civil Code (Chapter 16 of the Laws of Malta).

**Trust law**

Malta’s law is essentially a civil law system with a civil code based on Roman law and the Napoleonic Code. However, as a result of 150 years as a British Colony, Malta’s legal system is supplemented by the incorporation of English common law, especially in commercial law. Trusts, originally an institute of common law, have been recognised in Malta since the late 1980s.

In 1988, the Maltese Parliament adopted an Offshore Trusts Act, which introduced the trust concept in a ‘ring-fenced’ manner to non-residents and was based on the Jersey model. To move away from the offshore regime, in 1994, Malta ratified the Hague Convention on the Recognition and Enforcement of Trusts. A special law, the Recognition of Trusts Act, 1994, was enacted to implement the convention in Maltese law. From then onwards, Maltese Courts were able to recognise the validity and enforceability of trusts governed by a foreign law and to give effect to their terms even if the settlor of the trust was a Maltese resident. This has led to trusts being used in Malta freely, although it was not possible to use Maltese law as the law governing the trust.

To change this, the drafting of a new trust law began in the early 2000s. The Trusts and Trustees Act was enacted in 2004 and came into force in 2005.

- It allows Maltese or foreign settlors to establish trusts governed either by Maltese law or by a foreign law.
- With this law, Malta also eliminated ‘nominees’ from its legal system thus abiding by its international commitments to the OECD and FATF and effectively introduced trusts into the Civil Law of Malta.

With practitioners having more than 30 years of experience, Maltese trust practice and the law on trusts continue to evolve.

**Foreign Trusts**

Whether a trust is governed by foreign law or by Maltese law is a question of choice. Settlers can also be rest assured that foreign trusts will be fully recognised in Malta. Malta does not only recognise trusts created voluntarily and evidenced in writing, as required under the Hague Convention, but also recognises any other trust of property arising under the law of another country, meaning that even constructive or resulting trusts arising under foreign law will be recognised and enforced in Malta.

Likewise, foreigners wishing to settle property in trust may opt to use Maltese law or foreign law for their trusts. In these cases it is the law of the settlor’s domicile which should apply to succession and other patrimonial issues and not Maltese law – even if Maltese law is chosen as the proper law of the trust. The Maltese rules of reserved portion and ‘forced heirship’, whereby the assets of a deceased person must be divided as prescribed by law, will therefore only apply if the settlor was domiciled in Malta at the time of his/her death.

When Maltese law is governing a trust, the Civil Code and the Trusts and Trustees Act will govern the trust. However, if a Maltese trust law is set up but has no connection to Malta because of the domicile of the settlor, or the location of immovable property, the trust will be governed exclusively by the Trusts and Trustees Act.

**Law on Foundations**

Maltese Foundations are regulated by the Second Schedule of the Civil Code (Chapter 16 of the Laws of Malta), which dedicates an entire sub-title to foundations. The law on foundations adopts principles from the Maltese Companies Act, although it is largely based on Italian and French civil code provisions. It was introduced on the 1st of April, 2008. It is possible to set up both a private and a purpose foundation in Malta.

The setting up of a foundation entails the registration of the deed of foundation with local authorities such as the Office for the Registrar of Legal Persons. The foundation gains its separate legal personality through this registration. As foundation administrators have fiduciary obligations towards the beneficiaries, they too require licensing in terms of the Trusts and Trustees Act.

**Authorisation and Supervision of Trustees**

The Malta Financial Services Authority (MFSA) is the single regulator for all financial services in Malta and as such is responsible for the authorisation and supervision of trustees and foundation administrators. The regulator is generally described as being open to the needs of the business community but also firm in its approach to the regulation of the industry.

The MFSA invites potential trustees seeking an authorisation to operate in Malta to meet with the regulator to ensure that both the interests of the business and compliance with all regulatory standards are met (see ‘Setting up a Trust Business’). The following persons can act as a trustee in Malta:

- Persons may carry on the activities as trustees either in a professional or in a private capacity.
- A professional trustee may be either an individual resident or operating in Malta, or a corporate trustee, either registered in Malta or operating in Malta.
- An individual may act as a private trustee if he is either related to the settlor, by consanguinity or affinity in the direct line up to any degree or in the collateral line up to the fourth degree, or he has known the settlor for at least 10 years. In both cases, a private trustee cannot be remunerated, cannot hold himself out as a trustee to the public and cannot act habitually as trustee (meaning that he cannot act as trustee to more than five settlors at any time).
- Private trustees do not need to be authorised by the MFSA, whereas professional trustees, resident or operating in Malta, are required to obtain authorisation, irrespective of the proper law of the trusts they hold and whether or not all or part of the trust property is in Malta.
- A foreign person who has a licence or authorisation to act as trustee in an approved jurisdiction can benefit from a fast-track application. He/she is not required to submit a full application, but will only need to follow a notification procedure with the MFSA.

The MFSA

Single regulator for all financial services
Rigorous but fast, dynamic and flexible
Protecting Malta’s reputation. Focused on quality and integrity of industry players
Supervision is risk-based
Licensing procedure is personalised
Regulation is business sensitive
Regulator is approachable and meetings can easily be arranged.

**FinanceMalta investor guide series trusts & foundations**
Malta has introduced a special law that allows for the set-up of Maltese trusts. The procedure for establishing a trust in Malta is relatively easy. The security of the assets and confidentiality are the two main criteria.

A trust under Maltese law is a legal agreement between two parties: the settlor and the trustee. The settlor places assets under the control of the trustee for the benefit of a beneficiary/beneficiaries or for a particular charitable purpose. The assets could include bank accounts, real estate, stocks and bonds, furniture or art. As a result, a trust is seen as an efficient tool for estate planning as it is more flexible than a will and can be used to ensure that family wealth is secured and protected.

Trusts in Malta

Means of establishment: A trust may be created unilaterally or bilaterally, by oral declaration or in writing. A unit trust must always be created in writing.

The Settlor: The settlor is the person who sets up the trust. The settlor must be of age, have full capacity to contract and a free disposition of the assets settled on trust. While imposing fiduciary obligations upon the trustee in favour of the beneficiaries, trusts do not leave the settlor with any rights in relation to the trust property – except as specifically provided for in the Trusts and Trustees Act. The Trusts and Trustees Act lists the settlor’s rights (which may be supplemented by the trust deed) as follows:

- The settlor has the power to seek court directives as to trust validity;
- The settlor has the right to a variation of terms and revocable trusts where the Trust Deed so provides;
- In cases of trust termination, interest lapses or no existing or possible beneficiary, the trustee holds the trust property for the settlor (or his or her heirs) absolutely; and
- It is the trustee’s duty to provide the settlor with information, subject to the terms of the Trust Deed.

The Protector: The protector is typically a person who is in a trustworthy position (e.g. the family lawyer). The protector may also act as investment advisor. Subject to the trust terms, the protector typically has the power to:

- Appoint new and/or additional trustees;
- Remove trustees; and
- Require trustees to obtain the protector’s discretion (including approval) in relation to particular matters e.g. purchase / sale of trust property.

The Beneficiary: The beneficiary is the person who may benefit from the assets of the trust. All beneficiaries have to be mentioned by name or are ascertainable by class or by relationship to a person alive or dead. For instance, children not yet born or conceived may be beneficiaries. The rights of the beneficiary are personal and are regarded as movable property. Subject to the trust deed, the beneficiary may sell, charge or deal with his or her interest in any manner, provided that this is done in writing.

The beneficiary has the right to information from the trustee and may seek court directives regarding the validity of the trust. The beneficiary may also disclaim his or her interest, or part thereof.

Termination: A Malta trust is subject to a maximum duration of 100 years, however, it can be terminated earlier if all beneficiaries acting in unison demand termination, which the trustees must accept.

Attacking trusts: A creditor would need to take action against the trustee. As the assets of the trust are not the personal assets of the settlor, only the trust assets are exposed. Trust assets might be subject to precautionary and executive warrants (such as garnishee orders, injunctions and warrants of seizure) which can be issued by Maltese courts.

Ensuring trustees’ performance: Professional trustees are licensed by the MFSA, which has also issued a code of conduct to provide guidance to trustees as to the standards required under the Trusts and Trustees Act and other financial services legislation, as well as to the best practice in the industry. Trustees must exercise their fiduciary duties prudently and competently and, subject to the terms of the trust and the provisions of the Trusts and Trustees Act, consider the rights of all beneficiaries when making decisions affecting the administration of the trust. If a trustee fails to administer a trust in accordance with the law and the respective trust deed, the trustee is liable for such a breach and can be sued for it.
**Trust Forms**

Maltese law recognises all the main types of trusts one would normally find in traditional common law jurisdictions. They can be used for a wide variety of purposes, for asset protection, for estate planning, as a commercial tool or for testamentary usage.

### Discretionary Trusts

**Main Characteristics:** Trustees normally have choice or discretion as to how to manage and invest trust property and to whom, when and in what extent they distribute trust income and/or capital. Only after this trustee discretion has been exercised in his/her favour, a beneficiary’s potential interest is changed to a right to trust property. However, the trustee must exercise his discretion within the terms of the trust. Under Maltese law, the trust deed can contain a provision allowing trustees to appoint new beneficiaries if:

- The person to be appointed can either be identified by name or by reference to a class of beneficiaries; and
- Where identification is by reference to a class, the beneficiaries of that class must be ‘reasonably individually identifiable’ (e.g. the children, born or to be born of Mr. X & Mrs. Y); and the identification must be made either in the trust instrument or in any other written instrument by the settlor, whether binding or not on the trustee.

**Main Advantages:** A discretionary trust allows the trustee to respond to changing circumstances. This trustee flexibility is a distinct advantage of a discretionary trust. However, it is the trustee’s fiduciary duty to act in the interest of the beneficiaries.

**Main Uses:** A settlor may leave money in trust for his children and the trustees shall decide how to distribute those funds. If one child gets married and has children of his own, there may be good reason for the trustee to decide to give that child more funds. Another example is if one of the children refuses to work or another welfare purpose for the benefit of a child more funds. Another example is if one of the children refuses to work or.

### Spendthrift Trusts / Protective Trusts

**Main Characteristics:** These trusts are created by the settlor with the specific aim of providing a level of protection of trust assets from access by beneficiaries. They usually have more than one beneficiary. A discretionary trust may be used and the trust deed may have specific wording to support the trustee in their decisions on control of spending as it would be depriving a beneficiary of a right to income or capital.

**Main Advantages:** It provides a structure to limit a beneficiary’s access to assets. It also protects assets against creditors of a beneficiary/beneficiaries which could be to the detriment of other beneficiaries. Due to this protective advantage such a trust can also be described as an asset protection trust.

**Main Uses:** These trusts generally fall into four categories: relief of poverty; promotion of education; promotion of religion; or the promotion of animal and/or another welfare purpose for the benefit of the public.

### Charitable Trusts

**Main Characteristics:** This definition has a wide interpretation and can cover a number of types of trusts. Generally, these trusts are for a specific charitable purpose, for a specific charity or for a specific public benefit. Trustees may have greater freedom to act or not act. The trust might be registered for a charitable purpose which provides an element of public enforcement. These trusts are the only trusts that can last for more than 100 years.

**Main Advantages:** This type of trust may provide certain tax advantages, especially if the charity has a recognisable charity status. Setting up a charitable trust can be a discretionary trust.

**Main Uses:** These trusts commonly fall into four categories: relief of poverty; promotion of education; promotion of religion; or the promotion of animal and/or another welfare purpose for the benefit of the public.

### Unit Trusts

**Main Characteristics:** Unit trusts are a popular investment vehicle. They are used for the creation of pension schemes, employee benefit plans and collective investment funds. They are usually open-ended investment schemes. The participants or unit holders in a unit trust have property rights that can be enforced against the fund manager of the schemes or the unit trustees. There is no special provision in Maltese law covering unit trusts, which are therefore treated in the same way as ordinary Maltese trusts.

**Main Advantages:** Unit holders may prefer this type of ownership right since the property is held by a trustee and not by a company.

**Main Uses:** Nearly any type of pooling of investors in an investment project could be established as a unit trust. Other commercial transactions to hold property can also be constructed as a unit trust. These can involve complex commercial arrangements for insurance, pensions, exporting and financing.

### Accumulation & Maintenance Trusts

**Main Characteristics:** The trust fund creates an endowment for the beneficiaries whoever they may be. The trustee invests the trust fund to meet the specific needs identified in the Trust Deed. This type of trust can be a discretionary trust.

**Main Advantages:** The performance of trustees in delegating the investment should create an expectation of required performance to meet the need identified. This trust looks to identify and cover specific needs.

**Main Uses:** This type of trust could be used to meet specific needs of education, or the total welfare of a child to adulthood. Sometimes these trusts are established by grandparents for their grandchildren.
Foundations in Malta

Previously regulated by customary law, a special law on foundations was introduced in 2008. While a foundation adopts corporate principles, the law is mainly based on Italian and French civil code provisions.

Maltese legislation allows for the set-up of two types of foundations: Private and Purpose Foundations, which have particular uses and benefits for certain clients.

Private Foundations

These are set up for the benefit of a named person or class of persons called beneficiaries. The foundation’s patrimony is owned by the foundation itself (due to its separate legal personality) and is administered by designated persons (known as ‘administrators’) for the benefit of such beneficiaries.

Purpose Foundations

Such foundations have no ascertained or ascertainable beneficiaries but are established exclusively:

- For any charitable, philanthropic or other social purpose;
- As a non-profit making organization;
- For any other lawful purpose (not necessarily a social purpose and can be a private purpose).

Means of Establishment

A foundation can only be constituted in writing, either by a public deed or by a will. The foundation deed must be registered with the Office of the Registrar of Legal Persons.

Assets

The assets of a foundation may originate from any lawful business or activity and may consist of present or future assets of any nature. The minimum endowment of money or property to set up a foundation must be worth at least €1,165 (and €395 for a foundation established exclusively for a social purpose or as non-profit making).

Foundation deed

The Foundation Deed must contain the following information:

- The name of the foundation, which must include in it the word ‘foundation’;
- The registered address in Malta;
- The purposes or objects of the foundation;
- The constitutive assets with which the foundation is formed;
- The composition of the board of administrators, and if not yet appointed, the method of their appointment;
- The legal representation (a local representative is necessary if the administrators of the foundation are non-Maltese residents); and
- The term for which it is established.

In the case of a private foundation, the deed of foundation must contain the names of the beneficiaries, or in the absence of such indication, a declaration that the foundation is constituted for the benefit of the beneficiaries. In the latter case, the beneficiaries must be indicated in a separate legal instrument, known as a beneficiary statement, which must be signed by the founder, addressed to the administrators and authenticated by the Notary Public who has published the foundation deed. In order to protect confidentiality, the beneficiary statement does not need to be filed; in its stead a note of reference referring only to the founder is filed with the Registrar of Legal Persons.

Legal Form

Once the foundation is established and the deed is filed, a new legal person is created and the foundation itself becomes the owner of the foundation property.

Termination

Except when foundations are used as collective investment vehicles or in securitisation transactions or in the case of purpose foundations (which may be established for an unlimited term), foundations are valid for a maximum term of 100 years from their establishment.

Founder

Rights of the founder:

- The founder may exercise supervision over administration of the foundation, obtain copy or copies of accounts, inventory and descriptive notes of property;
- He/she may intervene in court proceedings concerning the appointment of administrators or the disposal of assets.

Conditions for the founder:

- The founder may also be an administrator;
- The founder may be a beneficiary during his lifetime, but cannot then act as sole administrator of the foundation.

Administrator

Duties of the administrator:

- The administrators (whether natural or legal persons) are responsible for maintaining possession and control of the property of the foundation, safeguarding such property and ensuring compliance with the statute of the foundation and the law;
- They are bound by fiduciary obligations stipulated in the Civil Code. Any fiduciary who breaches such obligations shall be bound to return any property, together with all other benefits derived by him, whether directly or indirectly, to the person to whom the duty is owed.

Supervisory Protector

The deed can provide for a supervisory council or the office of protector. They usually exercise supervision over the acts of the administrators and may be vested with powers of appointment or removal of administrators.

Main Advantages:

- Assets and liabilities are held by a legal person separate from the founders or the administrators.
- Thus, any potential debt and other liability that a foundation might have can only be enforced upon its patrimony and not beyond, except to the extent that the promoters and members expressly agree to be so liable or as expressly provided by law;
- Foundations can be converted into trusts and vice versa;
- Although a foundation needs to be registered, only a minimum of information in relation to a private foundation is available to the public, therefore confidentiality is guaranteed;
- A foundation would hold title to its assets. A foundation may have more than one founder and the founder(s) may be an individual or a legal person;
- Protectors and a supervisory council can be appointed, and thus, independent persons can be appointed to supervise the acts of the administrators;
- Beneficiaries can be individual, legal persons or even other foundations;
- Maltese law also allows the creation of segregated cells, which segregate assets and liabilities from other assets and liabilities, within a foundation.

Main Uses:

- Foundations are used for similar purposes as trusts.
- Common uses include: tax and estate planning, asset protection planning or assistance to charities.
- Foundations are prohibited from trading. However, a foundation may be endowed with commercial property or a shareholding in a company or other asset which gives rise to income, as long as the foundation is only the passive owner of such assets.
Setting up a Trustee Business in Malta

Malta is successfully competing with other more traditional trust centres. The country has made a name for itself as a reputable jurisdiction, in which trustees must meet stringent 'fit and proper' criteria prior to obtaining a licence to act as trustee for the benefit of the industry in Malta and individuals setting up a trust or a foundation.

**Licensing**

The Trusts and Trustees Act provides a framework for professional and private trustees. Administrators of a private foundation established or operating in Malta for the benefit of a private interest or purpose which is not charitable also require licensing under the same Act.

**Private Trustees**

- Do not require authorisation to act as a trustee from the MFSA but are bound to follow a strict notarial procedure. A private trustee has to declare in a notarial deed that he/she fulfils the requirements for private trustees and does not need to be licensed.
- Must be either directly related to the settlor or must have been known to the settlor for the last 10 years.
- Cannot be remunerated.

**Professional Trustees**

Professional trustees, whether individual or corporate, have to be authorised to operate in Malta by the MFSA. While establishing a trust company depends upon a number of factors, the reputation and qualification of the promoters is of paramount importance.

Advantages of setting up a trust business in Malta:
- English is an official language and the workforce is multilingual;
- Competitive costs;
- Quality domestic trust law and recognition of foreign trust law;
- Re-domiciliation law;

**Potential Conditions**

Potential trustees have to satisfy the following conditions:

**Company**

- Its objectives must include acting as trustee and carrying on activities ancillary or incidental thereto;
- Its activities must be compatible and connected with trustee services;
- Company directors must number at least three and be approved persons;
- The company must have established adequate systems for maintaining proper records of the identity and residence of beneficiaries, the dealings and the assets in connection with trusts (e.g. ensuring that trust funds are kept at all times separate from those of the trustee and also that they are not co-mingled with funds from another trust) and compliance with the applicable law;
- Every person who has a direct or indirect interest in the company must be an approved person;
- The name of the company is not inconsistent with its trustee activity;
- If the company is not registered in Malta, it must be constituted or incorporated in an approved jurisdiction.

**Individual**

- Must be resident in Malta or operating in Malta, and
- Must be an approved person; and
- Must have established adequate systems for maintaining proper records of the identity and residence of beneficiaries and of the dealings and assets of trusts (e.g. ensuring that trust funds are kept at all times separately from those of the trustee and also that they are not mixed with funds from another trust) and compliance with applicable law.

**Application for authorisation**

The MFSA may grant a general authorisation but can also restrict the authorisation to certain activities. As a first step, applicants are encouraged to contact the Authority prior to submitting a formal application to discuss their proposals. Applications then have to be made in writing to the MFSA on the required application form and accompanied by the application and processing fee and the following documentation:

- Personal questionnaires filled in by the individual or key personnel in the case of a company (e.g. qualifying shareholders, CEO, directors);
- Memorandum & Articles of Associations (in the case of a juridical person) or a certified ID card/passport and police conduct certificate (in the case of a natural person);
- Accounts;
- Copies of any standard trust and management agreements;
- Business plan;
- A group structure chart.

In considering an application for authorisation to act as a trustee, the MFSA may:

a) Carry out any enquiries which it considers appropriate;

b) Ask the applicant, or any specified representative of the applicant, to attend a meeting with the Authority to answer questions and explain any matter the Authority considers relevant in relation to the application;

c) Request any information furnished by the applicant to be verified in such manner as the Authority may specify;

d) Take into account any other information which it considers relevant in relation to the application; and

e) Verify information submitted by the applicant by reference to third parties.

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**Fees**

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<th>Fees</th>
<th>Amount</th>
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<tr>
<td>Trustees – Application and processing fee</td>
<td>€ 250</td>
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<tr>
<td>One-time licence fee</td>
<td>€ 100</td>
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<tr>
<td>Authorisation fee (to be paid upon the issue of the authorisation)</td>
<td>€ 2,500</td>
</tr>
<tr>
<td>Annual renewal authorisation fee</td>
<td>€ 2,500</td>
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</tbody>
</table>
A person (an individual or a company) who is already authorised to act as a trustee is not required to submit another application to be able to act as an administrator of private foundations. However, the person is required to submit the following documentation to the MFSA:

- A covering letter notifying the MFSA of their intention to act as an administrator of private foundations;
- If the trustee is a corporate entity, a draft revised memorandum and articles of association empowering the authorised trustee company to act as an administrator of private foundations;
- An updated business plan;
- Three-year financial projections (depending on the scale of the business envisaged);
- Personal questionnaires of any individuals employed by an authorised trustee who will be involved in the day-to-day administration of private foundations and are not yet known to the Authority;

In the case of those officers and employees (including directors) of an authorised trustee who are already known to the Authority and who will take part in the administration of private foundations - a declaration confirming whether there have been any changes to the information disclosed in their previously submitted forms. A new form would need to be submitted if the previously submitted personal questionnaire is more than five years old.

**Fast-Track Application**

The Trusts and Trustees Act also provides that a person licensed in terms of the Banking Act, Investment Services Act or Insurance Business Act, or a foreign person with an equivalent licence, acting as a trustee (not in the course of ordinary business for which they are licensed) must notify the MFSA of their intention to act as a trustee in Malta at least 45 days prior to commencing activities in Malta. This notification procedure also applies to a person who has a licence or authorisation to act as a trustee in an approved jurisdiction (such as EU/EEA and OECD states). This allows a foreign licensed trustee to set up operations in Malta in a simplified manner.

**Re-Domiciliation of Trust Companies**

Under the Continuation of Companies Regulations issued under the Companies Act, 1995 it is also possible to continue a trust company from another jurisdiction to Malta without having to wind up its operations in the original country as long as the foreign trust company is established in an approved jurisdiction.

**Advantages of Re-Domiciliation**

- Trustee remains the same; only its country of registration will change.
- Trusts remain fully intact.
- No need to transfer trust assets.
- A Maltese trustee can hold property under foreign law trusts.
- Can possibly obtain EU-wide passporting rights.
- Income originating from overseas is not subject to double taxation, even if there is no double taxation agreement in place.

Malta’s professional service providers are internationally renowned for the excellence of their service and are well positioned to offer meaningful support and strategic guidance to anyone wishing to set up a trust or a foundation in Malta.

**Trust and Estate Practitioners:** There are almost 130 licensed trust management companies in Malta, offering specialised trustee and fiduciary services and providing clients with the highest level of protection and security. Among them are international organisations but also many legal firms which own in-house trust companies. They act as trustees and can assist in establishing a trust. More than 20 companies are also authorised to act as foundation administrators.

**Legal Services:** Malta’s legal profession is long-established, and a large number of law firms operate on the island. They are regularly listed in Chambers, Legal 500, and other directories. All the leading international firms have a presence in Malta through associate links with local law firms. Many law firms have specialised in assisting international commercial and financial operators looking at doing business with or locating operations in Malta. Most lawyers have post-graduate degrees in various practice areas, including financial services, or furthered their studies at major institutions overseas. They can assist in financial, legal and tax aspects of succession planning and estate management to ensure a problem free and tax-efficient solution is found.

**Accountancy and Audit:** The international business community in Malta is strongly supported by a large range of legal, accounting and auditing practitioners ranging from small boutique practices to the global big four accountancy firms. There are also many consultants on the island providing business advisory and back office support and other services. Professional services costs are generally lower than in other Western European locations.
Banking & Financial Services

Malta has started to attract attention as a secure location to manage wealth and assets. The country’s banks are well capitalised and follow a conservative approach based on sound fundamental banking principles.

International Banking Centre

With five retail banks and more than 25 international commercial and trade banks already operating in or from Malta, this sector has become one of the most robust on the island. The island’s banks are able to provide a full range of personal, commercial and trade services to clients. HSBC and Bank of Valletta are the leading retail banks on the island. Smaller banks such as APS, Lombard, Volksbank and Rabobank help to keep the banking sector competitive and innovative, while Malta is also home to specialists in trade finance such as FIMBank and BARAG.

Custodian Banking

While many trustees prefer to work with custodians in other jurisdictions as part of their risk-management strategy, a number of banks have acquired custodial licences in Malta. HSBC, one of the world’s largest global custodians, is present on the island, while many other banks provide custodial services through international partners. Malta is keen to increase the number of custodians, however, apart from HSBC, Bank of Valletta, Mediterranean Bank, Sparkasse Bank Malta, Deutsche Bank and Custom House are able to provide a full range of personal, commercial and trade services.

The Concept of Trust Accounts

While trusts are generally seen as an instrument used only by high-net-worth individuals, a Maltese trust account offers the possibility of enjoying certain trust-related benefits on a bank account. A trust account is a deposit account based on the concept of a trust. The account is opened in the name of the bank which is responsible for holding the funds for the benefit of the named beneficiary. The advantages of the trust account include: the fact that it is not frozen in the event of a death and does not form part of succession proceedings; it offers an element of asset protection from creditors; it ensures confidentiality; and, for non-resident beneficiaries, it is tax exempt.

A trust account can be set up with a minimum deposit that is different for each bank, but ranges from 5,000 to 12,000 euro. The concept has gained considerable momentum and while it was initially deployed by the country’s two leading banks BOV and HSBC for the local market, the concept is now being exported by HSBC to non-traditional trust markets where the local banking officers can offer the product to their customer base and have the trust account administered from Malta by HSBC.

Investment Advisors

With approximately 120 investment services firms licensed in Malta, individuals or corporations seeking assistance in the management of their assets are spoilt for choice. It is advisable that trustees refrain from providing investment advice. However, should a settlor request such assistance, the trust deed should allow for the appointment of an investment advisor, who would be responsible for providing investment recommendations, whereby the trustee will be responsible for their implementation.

Real Estate

Malta offers a wide range of commercial and residential property for rent or outright purchase. One of the advantages of Malta’s small size is that commuting time between Malta International Airport and an office is rarely greater than 20 minutes, and journeys are seldom longer than 40 minutes.

Commercial Property

Given Malta’s small geographic area, there are few restrictions on where a business setting up in Malta can choose to establish its operations. In effect, the final choice will depend upon preferences and relative cost related to the quality and suitability of the property concerned.

Type of Office Space

Office space is available in purpose-built office blocks, in converted houses, flats or within some of the new, large mixed-use developments. Malta offers viable locations with sea views and marinas as well as prestigious landmark office complexes within easy commuting distance of residential areas.

Rental Costs

Overall, rentals are around two-thirds to half of those charged for comparable commercial spaces in continental Europe.

Costs of Commercial Space

<table>
<thead>
<tr>
<th>Type of Office Space</th>
<th>Approx. Rental Prices in €/m² per annum</th>
<th>Approx. Sale Prices in €/m²</th>
</tr>
</thead>
<tbody>
<tr>
<td>Prestigious</td>
<td>600-850</td>
<td>6,000-8,500</td>
</tr>
<tr>
<td>Professional</td>
<td>180-300</td>
<td>2,400-4,000</td>
</tr>
<tr>
<td>Economical</td>
<td>80-275</td>
<td>1,500-3,500</td>
</tr>
</tbody>
</table>

Locations

Valletta: Malta’s capital city is the administrative centre of the island. The Malta Stock Exchange and the Central Bank of Malta are in Valletta. Office space is usually offered in prestigious townhouses or century-old palazzos. A number of offices have also been opened at the Valletta waterfront.

Sliema/St. Julian’s: Sliema and St. Julian’s are located on the peninsula to the north of Valletta. Office space is available in smart blocks, with sea views or without. The Portomaso Business Tower in St. Julian’s is one of the prime corporate addresses in Malta.

Other areas/types: Office space is available practically all over the island. A number of business centres also offer ready-to-move into offices. They usually include fully equipped offices that are available on demand with flexible terms, meeting rooms and a receptionist service.

Residential Property

In the past few years, Malta has become one of the most sought after locations in Europe for foreign nationals seeking to purchase homes as an investment or for relocation purposes. A wide range of residential property can be found in Malta, ranging from apartments, penthouses, townhouses to villas, with or without a pool. Developments in recent years include marina and coastal complexes at the top-end of the market. The rental market is steady and the property market looks positive for the future, making investing in property an interesting opportunity. Gozo’s property tends to appeal to the holiday rental or second home market and is dominated by rustic style farmhouses and modern apartments.
Communications

Cross-border transactions and set-ups require cutting-edge telecoms and IT systems. Malta has seen huge public and private sector investment in ICT over the past 15 years and today the country boasts a truly modern infrastructure.

Malta’s telecoms network is reliable, stable and secure. As the infrastructure has opened up to market forces, access rates have increased and tariffs have lowered.

A Dynamic Cluster

Malta’s ICT industry is a versatile and mature cluster, and the country hosts more than 200 IT companies, including international giants such as Microsoft, Oracle and Cisco. Tecom of Dubai has chosen Malta as the location in which to build a European ICT and media city on the models developed in Dubai, while Microsoft is currently setting up an innovation centre focused on cloud computing. Malta’s top-level telecoms infrastructure has also turned the country into a centre for the processing of online payments and has attracted more than 250 eGaming companies as well as outsourcing business such as disaster recovery, data processing, data storage and database management. With 100 per cent of public services for citizens and enterprises accessible via processing, data storage and database management. With 100 per cent of public services for citizens and enterprises accessible via processing, data storage and database management.

International connectivity & bandwidth: Malta is internationally connected through two satellite stations (one to the Atlantic Ocean region and the other to the Indian Ocean region) and four submarine fibre-optic links to mainland Europe; two of which are operated by GO and the others by Vodafone and Melita respectively. All operators say their cables are designed to carry a lot more traffic than current levels and their capacity is unlimited.

Service Providers: GO, Melita and Vodafone are the three main telecoms service providers, while Malta hosts more than 200 IT companies.

Data centres: Data centres are operated by the telecoms operators with their own fibre-optic cables but also by other telecoms companies, allowing companies to choose between a range of service providers.

Call centres: The fact that English is an official language, coupled with the good language abilities of the Maltese and the country’s good telecoms infrastructure, has made Malta a hub for call centres. Among the call centres already set up in Malta is HSBC’s international contact centre.

Phone: Mobile telephony operators provide wireless Internet connections based on GPRS technology, and Voice Over Internet Protocol Services (VOIP), enabling companies to make substantial cost savings on telecommunication expenses.

Postal services: Postal services are provided by Maltapost Plc. Delivery is efficient and reliable with a three-day service to most mainland European cities. All the main international courier services are represented on the islands.

ICT RANKINGS

<table>
<thead>
<tr>
<th>Service</th>
<th>Rank</th>
</tr>
</thead>
<tbody>
<tr>
<td>Government prioritisation of ICT</td>
<td>4</td>
</tr>
<tr>
<td>Importance of ICT to government’s vision of the future</td>
<td>4</td>
</tr>
<tr>
<td>Impact of ICT on access to basic services</td>
<td>14</td>
</tr>
<tr>
<td>Impact of ICT on new services and products</td>
<td>21</td>
</tr>
<tr>
<td>Broadband Internet subscriptions per 100 population</td>
<td>16</td>
</tr>
<tr>
<td>Mobile network coverage rate</td>
<td>1</td>
</tr>
<tr>
<td>Secure internet servers</td>
<td>11</td>
</tr>
<tr>
<td>Internet &amp; telephony competition</td>
<td>2</td>
</tr>
</tbody>
</table>


Human Capital

Service providers choosing to set up operations in Malta benefit from low labour costs. A university with an excellent reputation and a number of other training institutes prepare people for a career in financial services, making it easy to find the right people for trust administration business.

Diligent, highly educated and multilingual, the Maltese workforce is the country’s greatest strength and most valuable asset. The key reasons are:

Multilingual. Maltese speak at least three languages, Maltese, English and Italian, in addition to another language, usually French or German.

Educated. Some 60 per cent of students (18-24 year olds) continue in further education in some 85 institutes.

Skilled. Malta’s workforce possesses the skills the financial services industry requires. While many financial services professionals in Malta were educated or gained professional experience in the UK, the University of Malta also offers degree courses in financial services and provides a fresh stream of graduates every year. Staff working across all sectors of the industry are also trained at the Malta College of Arts and Technology (MCAT), the Institute of Financial Services Practitioners and the Malta International Training Centre, an educational centre that was specifically established to support the financial services industry through the provision of technical training. Various courses are offered annually to train both students and staff in fund administration, valuation, accounting, portfolio management, and fund incorporation.

Value for Money: Labour costs in Malta are two thirds of those in other Western European jurisdictions.

Average Salaries (in €)

<table>
<thead>
<tr>
<th>Position</th>
<th>Average Salary</th>
</tr>
</thead>
<tbody>
<tr>
<td>CEO</td>
<td>48,512.06</td>
</tr>
<tr>
<td>CFO</td>
<td>39,614.00</td>
</tr>
<tr>
<td>Financial Controller</td>
<td>40,321.38</td>
</tr>
<tr>
<td>Management Accountant</td>
<td>40,321.38</td>
</tr>
<tr>
<td>Qualified Accountant</td>
<td>30,040.40</td>
</tr>
<tr>
<td>Account Administrator</td>
<td>29,592.18</td>
</tr>
<tr>
<td>Senior Compliance Manager</td>
<td>29,592.18</td>
</tr>
<tr>
<td>Compliance Manager</td>
<td>29,592.18</td>
</tr>
<tr>
<td>Compliance Administrator</td>
<td>29,592.18</td>
</tr>
<tr>
<td>Trust Administrator</td>
<td>28,040.40</td>
</tr>
<tr>
<td>Trust Supervisor</td>
<td>21,998.70</td>
</tr>
</tbody>
</table>

Source: Castille Resources, Salary Survey 2011

Value added tax is at 10 per cent.

Social security: Employers pay social security contributions at a rate of 10 per cent of the basic wage paid to their employees, subject to a minimum of €15.15 per week and a maximum of €35.39 per week. Employees pay another 10 per cent of basic wages, subject to the same minimum and maximum.

Attracting Foreign Talent

The island’s incredible climate and comfortable lifestyle also make it easy to attract foreigners to take up positions in Malta’s finance industry. Malta’s laws on immigration are in line with the European Union’s visa obligations for foreign nationals. While EU and EEA citizens are free to work and reside in Malta, non-EU nationals must apply for and obtain an Employment Permit, and the granting of the application is subject to a labour market test.

FACtS

FinanceMalta investor guide series trusts & foundations

What employers need to know

Probation: The length of the probation period is normally six months unless otherwise agreed by both parties.

Weekly working time: 40 hours.

Leave: Employees in full-time employment are entitled to 24 days of vacation leave per year. Maternity leave for female employees in full-time employment is 16 weeks. The law also provides for up to three months unpaid parental leave in the case of birth, adoption or legal custody of a minor.

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Trust Administrator: 28,040.40

Source: Castille Resources, Salary Survey 2011

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Taxation in Malta

Malta has a strong international treaty network and its tax system has been approved by the EU and the OECD.

Corporate Tax

Malta offers a highly efficient fiscal regime which avoids double taxation on taxed company profits distributed as dividends. Malta companies are taxed at a rate of 35 per cent. However, a full imputation system applies to the taxation of dividends, whereby the tax paid by the company is imputed as a credit to the shareholder receiving the dividend. Following the distribution of a dividend, shareholders are also entitled to claim a tax refund of 6/7ths of the relevant tax paid in respect of trading income and 5/7ths of the relevant tax paid in the case of passive interest and royalties. The refund is reduced to 2/3rds where the distributing company claims double taxation relief.

Income and gains from a participating holding (where a company holds directly at least 20 per cent of the equity shares of a non-resident company, or meets certain other criteria) are exempt from tax. Alternatively, instead of claiming this exemption, a company can choose to pay tax at the normal tax rate and then receive a full refund of the tax paid upon a distribution of dividends.

Malta’s tax system has been deemed by the European Commission to be compliant with EU non-discrimination principles and has also gained approval from the OECD.

Basis of Taxation

A company incorporated in Malta is considered to be resident in Malta if its management and control is exercised in Malta. But as the company is not domiciled in Malta, it is subject to tax on income arising in Malta and on foreign income (but not capital gains) that it receives in Malta.

A company incorporated outside Malta is considered to be resident in Malta if its management and control is exercised in Malta and where the trust assets are situated outside Malta. The trust is subject to tax on income arising in Malta and on foreign income (but not capital gains) that it receives in Malta.

A company that is not incorporated nor managed or controlled in Malta is subject to income tax only on income and capital gains arising in Malta.

Taxation of Key Vehicles

Banks and Financial Institutions: Banks and financial institutions are taxed as any other company registered in Malta.

Insurance Companies: Special provisions apply to the determination of total income from the business of insurance.

Insurance Managers: Insurance management companies are taxed like all companies registered in Malta. Each cell in a PCC or an ICC is treated as a separate company for tax purposes.

Fund Managers / Fund Administrators: Fund managers and fund administrators are taxed like all companies registered in Malta.

Investment Funds: Malta-domiciled funds are, as a general rule, exempt from Maltese income and capital gains tax as long as they do not have over 85 per cent of their assets situated in Malta.

Trusts: When all the beneficiaries of a trust are not domiciled/resident in Malta and where the trust assets are situated outside Malta, no Maltese income tax (or transfer duty) is payable.

Foundations: A foundation may be treated as a Maltese company and benefit from Malta’s full imputation system. Foundations may also opt to be taxed in the same manner as a trust.

Retirement Schemes: Licensed retirement schemes are exempt from tax on income and capital gains but this does not apply to immovable property situated in Malta.

Personal Income Tax in Malta

Individuals are charged on their income at progressive tax rates up to a maximum rate of 35 per cent. However, Malta will reduce the top rate of income tax over the next three years to 25 per cent for those who earn up to €60,000. Tax liability in Malta is based on the following conditions:

<table>
<thead>
<tr>
<th>Rate</th>
<th>Single Computation (€)</th>
<th>Joint Computation (€)</th>
<th>Parental Computation (€)</th>
</tr>
</thead>
<tbody>
<tr>
<td>0%</td>
<td>0 - 8,500</td>
<td>0 - 11,900</td>
<td>0 - 9,300</td>
</tr>
<tr>
<td>15%</td>
<td>8,501 - 14,500</td>
<td>11,901 - 21,200</td>
<td>9,301 - 15,800</td>
</tr>
<tr>
<td>25%</td>
<td>14,501 - 19,500</td>
<td>21,201 - 28,700</td>
<td>15,801 - 21,200</td>
</tr>
<tr>
<td>31% (2013)</td>
<td>19,501 - 60,000</td>
<td>28,701 - 60,000</td>
<td>21,201 - 60,000</td>
</tr>
<tr>
<td>29% (2014)</td>
<td>19,501 - 60,000</td>
<td>28,701 - 60,000</td>
<td>21,201 - 60,000</td>
</tr>
<tr>
<td>25% (2015)</td>
<td>19,501 - 60,000</td>
<td>28,701 - 60,000</td>
<td>21,201 - 60,000</td>
</tr>
<tr>
<td>35%</td>
<td>60,001+</td>
<td>60,001+</td>
<td>60,001+</td>
</tr>
</tbody>
</table>

Individuals are taxed on the following basis:

A person who is ordinarily resident and domiciled in Malta is subject to tax on his worldwide income and capital gains.

A person who is resident but not domiciled in Malta is taxed on income and capital gains arising in Malta and on foreign income (but not foreign capital gains) received in Malta.

Non-resident individuals are subject to tax on income and capital gains arising in Malta.

Residence will be based on where a person effectively lives and has a home. The Department of Inland Revenue will consider individuals who have spent in the last three years to 25 per cent for those who earn up to €60,000. Tax liability in Malta is based on the following conditions:

Highly Qualified Professionals

To attract highly qualified personnel to the financial services industry, Malta has introduced a new incentive scheme in 2011 targeting well-paid foreign executives.

- Individuals who have their domicile outside of Malta and who are employed in senior positions with a company that is licensed or recognised by the Malta Financial Services Authority to conduct financial business in or from Malta, can benefit from a flat personal income tax rate of 15 per cent on income up to 5 million euro.

- Any income over 65 million will be tax-free.

- To qualify for this tax incentive the employee must earn a minimum of €75,000 per year, amongst other criteria.

The Highly Qualified Persons Rules 2011 apply to the following executive positions, amongst others: Chief Executive Officer, Chief Risk Officer, Chief Financial Officer, Chief Operations Officer, Chief Technology Officer, Portfolio Manager, Chief Investment Officer, Senior Trader/Trader, Senior Analyst (including Structuring Professional), Actuarial Professional, Chief Underwriting Officer, Chief Insurance Technical Officer, Head of Marketing and Head of Investor Relations.

EU nations can benefit for an unlimited period from the reduced tax rate, EEAs and Swiss nationals for a period of five consecutive years, while third-country nationals for four consecutive years. These periods commence in the year in which the recipient of the benefit first becomes liable to tax in Malta.
Travel & Living

Malta’s mild climate and sparkling blue seas make for a business environment that is second to none: compact but cosmopolitan, sophisticated but stress-free. In today’s hectic world, Malta offers the perfect balance between work and relaxation. Long sunny days and beautiful surroundings provide for an enviable outdoor lifestyle, and with its short distances, you can wave goodbye to long commuting hours and enjoy the friendly company of a growing expat community.

Globally Connected

It just takes two to three hours flying time from most European cities to reach Malta International Airport (MIA), the island’s only airport. Regular flights are provided by Air Malta, Malta’s national airline, as well as other airlines such as Lufthansa, Emirates, Air France, AeroSvit, Alitalia, Austrian Airlines, Scandinavian Airlines, Ryanair, Easyjet and Spanair.

Five-star Luxury

International hotel chains such as Hilton, Radisson, Corinthia and Intercontinental are present in Malta. Superior accommodation is also offered at the Palace Hotel, the Phoenicia Hotel, the Westin Dragonara Resort or the five-star boutique hotel Xara Palace Relais & Chateaux. The main tourist centres are Sliema and St. Julian’s as well as Bugibba and Qawra.

Flavours of the Mediterranean

There are many restaurants in which to enjoy a pleasant Mediterranean evening: from smart city restaurants in Baroque palaces to family-run trattoria-style places or seafront fish restaurants, the choice is wide. Bacchus Restaurant in Mdina and Barracuda Restaurant in St. Julian’s are two of Malta’s best establishments.

Markets and Malls

Most international chains and brands have a presence in Malta. Exclusive boutiques also sell designer wear at relatively low prices. The main shopping districts are Sliema and Valletta, where one can also find shopping complexes and street markets. Shops are usually open from 9 am – 1 pm and 4 pm – 7 pm and most are closed on Sundays.

Best Climate in the World

Malta enjoys more than 300 days of sunshine during the year. The magazine ‘International Living’ has rated the country’s climate the best in the world. Summers are dry and warm and winters are mild with daytime temperatures usually above 12 degrees. Even in winter Malta enjoys an average of 5 to 6 hours of sunshine and more than 12 hours a day in summer.

Double Taxation Treaties

Malta has signed agreements for the avoidance of double taxation with over 60 countries. The Maltese tax system also includes Commonwealth relief, unilateral relief and the flat rate foreign tax credit, thereby ensuring that income arising from overseas is not subject to double taxation, even if there is no double taxation agreement in force.
10 reasons why expats enjoy living in Malta

**Living Heritage**
With 7,000 years of history and many remains visible to this day, Malta has been described as an open-air museum. Megalithic temples, medieval towns and massive bastions have all been declared as UNESCO World Heritage Sites. They regularly provide the backdrop for events listed in Malta’s packed cultural calendar such as concerts, plays or art exhibitions.

**Short Distances**
Malta has a road network of 1,500 kilometres, however, it only takes 45 minutes to cross the island. The public transport system has recently been overhauled and is now operated by German-owned Arriva group. A new network of routes and a new fleet of modern buses provide an extensive service across Malta and Gozo. A train service does not exist in Malta.

**Low Crime Location**
Malta offers a stable, secure environment for families with young children. Crime is almost non-existent. Children play on the streets and there are still some areas where people leave their door unlocked at night. Foreigners find it easy to integrate with the local community. The Maltese are a sociable bunch and make every visitor feel welcome.

**English-Speaking Destination**
English is one of Malta’s official languages, Maltese the other. English is the main language of business while laws and regulations are published in both languages. Many Maltese are also fluent in Italian and some even speak another language, mainly German or French.

**Morning News and Evening Shows**
Malta’s bilingual culture is also reflected in the media landscape and half the newspapers are published in English. Foreign newspapers can be purchased easily due to Malta’s orientation towards tourism. In addition to satellite TV, two private cable-TV providers offer most international channels and favourite programmes.

**Value for Money**
The cost of living in Malta is one of the lowest in Europe, yet banking, taxation, insurance, social security, utilities and communications services are sophisticated, professional and reliable, often surpassing those offered in many European nations.

**First Class Healthcare**
Malta has one of the best health services in the world. EU nationals resident in Malta are eligible to receive free medical treatment at public hospitals and clinics. The main general hospital is Mater Dei Hospital in Msida, while many towns and villages have their own medical clinics. Malta also has several private hospitals located around the island, such as the renowned St. James Hospital in Sliema.

**High Quality Education**
Malta provides an excellent standard of education. Children can be educated in one of the private international schools such as St Michael’s School in Pembroke or enrolled in the local state, church or independent schools. Kindergarten facilities are also available. Tertiary education is offered through the University of Malta and other institutes and private colleges.

**A Home in the Sun**
There is a wide range of properties available to rent or purchase, from furnished apartments to farmhouses, villas with pools, and even palaces, all at competitive prices. A number of five-star developments have recently been built on the island, including Portomaso and Tigne Point, which offer luxury apartments surrounded by commercial, health, fitness and leisure facilities.
Personal Financial Services
As a sophisticated finance centre, Malta offers a wide range of services and insurance and investment products for the personal needs of executives and managers moving to Malta. The country’s banks operate a strong network of ATMs and branches across the islands. All major cards are accepted. Malta is also part of SEPA, the EU’s Single Euro Payments Area.

Perfect Spots for Sports
Water sports are popular in Malta. The conditions for scuba diving and snorkelling are excellent, particularly as the sea temperature never drops below 15 degrees C (59 degrees F), even in winter. Malta has one golf course, located at the Royal Malta Golf Club. Gyms and football or water polo clubs can be found all over the island. Boating excursions are offered by Hera Cruises and Malta Yacht Charters Company.

Buzzing Entertainment Hub
The sea, cafés, restaurants, clubs, cinemas, theatres, sports clubs or gyms are almost always within walking distance of office complexes or residential areas. There are a wide range of festivals celebrated in Malta, the biggest one being the annual Carnival. In addition, every town or village in Malta celebrates the feast of its patron saint with a big outdoor festival.

Visa-free Travel in the Schengen Zone
Malta’s immigration laws are in line with EU policies. The country is part of the Schengen zone. EU nationals are free to work and live in Malta. Non-EU citizens can find details about visa-exempt countries and visa application procedures on the website of the Ministry of Justice and Home Affairs at www.mjha.gov.mt. Third-country nationals also require work permits to work in Malta.

Powering the Finance Centre
Energy and water supplies are stable. The energy and water requirements are catered for by Enemalta and the Water Services Corporation respectively. Oil is so far the only type of energy used for electricity generation, while recent years have also seen a move towards alternative sources. The electricity is 240 volts AC, 50 Hz, and plug types are the three-pronged British model.
**BELAIRE REAL ESTATE**

Belair is a long-established company and well-known specialist in the real estate field. Over the years, the directors have built long-term relationships with owners and clients alike, respected and trusted for their ability to create value for clients because of their integrity and hard work. Belair offers a wide portfolio of residential and commercial properties both for sale or rent. Renowned for their key role in assisting companies and individuals relocating to Malta, Belair can also assist clients on tax and legal issues as well as facilitating their move and integration within the Maltese society.

Contact: Mr. Ian Casolani - Managing Director

**ALLIANCE TRUST COMPANY LIMITED**

Alliance Trust Company Limited (ATCL) offers trust and fiduciary services to a strong and diverse international clientele. Licensed by the Malta Financial Services Authority, it accepts fiduciary office, including acting as trustees and administrator for public and private foundations and various management services roles in corporate structures. Its professional approach is relationship-driven, with a long-term focus. ATCL also specialises in company formation, administration, and management support services. It is the founding member of TAP Knowledge, an alliance of independent centres of professional expertise, including structure formation and management, legal accounting and ICT support, facilities management, corporate strategy and project finance consulting, and property location and personal relocation services.

Contact: Dr. Christian Fanuzza - Director
Banking to meet the needs of International businesses. We are an international Trade, Invoice Finance, Payments and Cash Management as well as International.

A wide range of specifically designed products and services are available to all trained to service businesses thus making it a service centre of excellence.

PrimeGlobal, an international association of accountants and advisers, adds value by providing an extensive treaty network and advantageous tax regime. Being members of GRIFFITHS & ASSOCIATES

Malta's largest legal firm and offers a comprehensive range of legal services and local legal practice, contributing to Malta internationally recognised reputation as a centre for financial services and maritime law. GRIFFITHS & ASSOCIATES

is currently Malta large legal firm and offers a comprehensive range of legal services and solutions for domestic and international clients. The firm enjoys an excellent reputation at national and international level and has relationships with many major firms in Europe, the United States and other continents. Dr. Cremona currently holds the Trusts Department of the firm.

Established in 1982 and located in Sliema, our firm of Certified Public Accountants offers a one-stop-shop for assisting businesses in carrying on their activities in, from and through Malta. The firm’s activities include company formation, back-office services and international tax structuring, especially within the context of Malta’s international legal and tax framework, in addition to providing a full range of services to international clients. The firm’s clients cover a wide range of industries and sectors, including banking, insurance, real estate, hospitality, and professional services.

We have 22 principals (including 14 partners) and a staff complement of 260. With a balanced mix of experienced hands on the ground and the latest in technology, GSMP provides a wide range of services designed to meet the needs of businesses and entrepreneurs.

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Contact: Mr. Gordon Mifsud - Managing Director

KPMG

KPMG in Malta is one of the leading providers of audit, tax and advisory services. We have 22 principals (including 14 partners) and a staff complement of 260. With a balanced mix of experienced hands on the ground and the latest in technology, GSMP provides a wide range of services designed to meet the needs of businesses and entrepreneurs. KPMG provides a comprehensive range of services including audit, tax, advisory, forensic and investigation services, and is now established with a solid reputation in the provision of extensive centralised back office services for its clients. The services we offer to our clients include not only audit and tax services, but also a wide range of advisory and consulting services.

Malta Enterprise (ME) is the national economic development agency focused on promoting inward investment, internationalising business and supporting growth.

We continue to build on past successes thanks to a clear vision, rigorously maintained and continued into value for the benefit of our clients, our people, and the capital markets. We bring a fresh and innovative approach to our clients and our markets, and our success is based on the dedication and expertise of our people.

We aim to exceed our clients’ expectations. Our service is always built around each client’s needs and priorities. Whatever we do for you, you can be assured that we will always work with uncompromising integrity, quality, personal service and attention to detail.

WINNING I STRATEGIC I ADVICE
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PWC
PwC is the leading and largest professional services organisation in Malta providing industry-focused assurance, tax and advisory services. The Malta firm forms part of the PwC network where more than 180,500 people in 158 countries share their thinking, experiences and solutions to develop fresh perspectives and practical advice. PwC Malta provides tailored advice on the suitability and implications of the setting up of trusts and foundations through its dedicated multi-disciplinary professional team. The Malta firm is also active within the PwC network in promoting the characteristics and possible uses of trusts and foundations set up under Maltese law.

TRIDENT TRUST
Through 34 offices in 24 jurisdictions, Trident Trust has for more than 30 years been a leading provider of corporate and trust services to the financial services sector worldwide working with intermediaries, financial institutions and large international organisations. Trident Fund Services, a dedicated fund services division of Trident Trust, provides cost-effective fund administration services with assets under administration exceeding €30 billion. Managers select us for our experienced personnel, robust fund administration systems, global reach, reliability and responsiveness.

SPARKASSE BANK MALTA PLC
The Bank forms part of the Austrian Savings Banks and the Erste Group Bank AG network. From Malta the Bank provides Private Banking, Wealth Management and Fund Custody solutions. Fund custody is a core business for the Bank and its experience in the field allows for flexible and practical worldwide solutions. The Bank provides custody services to UCITS, AIF and PIFs offering a personal, tailored and seamless banking, execution and settlement solution.

STM MALTA TRUST AND COMPANY MANAGEMENT LIMITED
Forming part of STM Group plc (a UK AIM quoted company) and through our network of offices in Gibraltar, Jersey, Spain and Cyprus, STM Malta Trust and Company Management Limited provides our growing international client base with a range of services such as acting as Trustees and Administrators of Trusts, Administration of Foundations and all aspects of Corporate Services, including re-domestication. Our dedicated and professional staff provides a powerful combination of innovation, experience and understanding to address each client’s specific requirements. STM Malta Trust and Company Management Limited is regulated by the Malta Financial Services Authority.

VODAFONE MALTA LIMITED
Vodafone Malta is proud to be the local provider of choice for high-speed broadband, co-location services and international private leased lines. With its very own submarine cable and a high capacity link on another 3rd party submarine cable, Vodafone provides a resilient connection to mainland Europe where multiple international carriers route all traffic to anywhere around the world. Vodafone Malta also operates a state-of-the-art carrier grade co-location facility serving an ever growing number of mission-critical businesses operating out of Malta. Vodafone guarantees 24/7 technical support, multiple carrier connectivity and an outstanding level of service that is synonymous with the Vodafone brand.

FinanceMalta is the public-private initiative set up to promote Malta’s International Financial Centre

your firm benefiting from membership to FinanceMalta

Membership advantages include:

• Company listing on our website
• Participate in webinars & podcasts
• Opportunities to showcase your firm
• Business networking & educational events
• Complimentary passes to some of Europe’s most important events
• Opportunity to take part in road shows, press briefings & workshops
• Access to market intelligence reports & branded marketing materials

more information on:
www.financemalta.org
Malta
The culture of getting things done

Securely Regulated
Market Driven
Competitively Skilled